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EXHIBIT “A”

**SUMMONS
(CITACION JUDICIAL)**

**UNLAWFUL DETAINER—EVICTION
(RETENCIÓN ILÍCITA DE UN INMUEBLE—DESALOJO)**

NOTICE TO DEFENDANT: Ardreda Johnson and Does I through X, Inclusive
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY THE PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Crosby Capital USA LLC

**FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
FONTANA DISTRICT

SEP 28 2018

BY Precious Lovett
DEPUTY

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov), o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

1. The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California
County of San Bernardino - Fontana
Courthouse
17780 Arrow Boulevard
Fontana, CA 92335

CASE NUMBER:
(Número del caso):

WDF S1806354

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

WILLIAM R. JARRELL, SBN 290271

4375 Jutland Drive, Suite 200
P.O. Box 17934, San Diego, CA 92177

(phone): (858) 750-7600
(fax): (619) 590-1385

3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400—6415) ☒ did not ☐ did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date:
(Fecha)

SEP 28 2018

Clerk, by Precious Lovett Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (form POS-010).)

[SEAL]

4. NOTICE TO THE PERSON SERVED: You are served

- a. ☐ as an individual defendant
b. ☐ as the person sued under the fictitious name of (specify):
c. ☐ as an occupant
d. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association of partnership) ☐ CCP 416.90 (authorized person)
☐ CCP 415.46 (occupant) ☐ Other (specify):

5. ☐ by personal delivery on (date):

PLAINTIFF (Name): Crosby Capital USA LLC	CASE NUMBER:
DEFENDANT (Name): Ardreda Johnson et al.	

6. **Unlawful detainer assistant** (complete if plaintiff has received any help or advise for pay from an unlawful detainer assistant):

- a. Assistant's name:
- b. Telephone no.:
- c. Street address, city, and zip:

- d. County of registration:
- e. Registration no.:
- f. Registration expires on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) WILLIAM R. JARRELL, SBN 290271 ALDRIDGE PITE, LLP 4375 Jutland Drive, Suite 200 P.O. Box 17934, San Diego, CA 92177-0934 ATTORNEY FOR (Name): Crosby Capital USA LLC		FOR COURT USE ONLY <div style="text-align: center;"> FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SEP 28 2018 <i>Precious Lovett</i> DEPUTY </div>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 17780 Arrow Boulevard MAILING ADDRESS: Fontana, CA 92335 CITY AND ZIP CODE: BRANCH NAME: County of San Bernardino - Fontana Courthouse		Phone: 858-750-7600 Facsimile: 619-590-1385	
CASE NAME: Crosby Capital USA LLC vs. Ardreda Johnson			
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input checked="" type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: WDFS1806354 JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input checked="" type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 1
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
 Date: September 24, 2018

 WILLIAM R. JARRELL, SBN 290271
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this coversheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any coversheet
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse
Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court
Writ—Other Limited Court Case
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

- 1) If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
- 2) If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint.
- 3) If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (<i>Name</i>):		
NAME OF COURT: STREET ADDRESS: 17780 Arrow Boulevard Fontana, CA 92335 MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: County of San Bernardino - Fontana Courthouse PLAINTIFF: Crosby Capital USA LLC DEFENDANT: Ardreda Johnson, and DOES I through X, inclusive		
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION Complete this form only if ALL of these statements are true: 1) You are NOT named in the accompanying Summons and Complaint. 2) You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed. 3) You still occupy the premises.		CASE NUMBER: (<i>To be completed by the process server</i>) DATE OF SERVICE: (<i>Date that this form is served or delivered, and posted, and mailed by the officer or process server</i>)

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

- 1) My name is (specify):
- 2) I reside at (street address, unit No., city and ZIP code):
- 3) The address of "the premises" subject to this claim is (address):
- 7352 Stonehaven Pl., Rancho Cucamonga CA 91730
- 4) On (insert date): , the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.)
- 5) I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
- 6) I was at least 18 years of age on the date the complaint was filed (the date in item 4).
- 7) I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
- 8) I was not named in the Summons and Complaint.
- 9) I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.
- 10) (Filing fee) I understand that I must go to the court and pay a filing fee of \$_____ or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)

PLAINTIFF (Name): Crosby Capital USA LLC

CASE NUMBER:

DEFENDANT (Name): Ardreda Johnson, et al

NOTICE: If you fail to file this claim, you will be evicted without further hearing.

11) (Response required within five days after you file this form) I understand that I will have five days (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

12) **Rental agreement.** I have (check all that apply to you):

- a) ☐ an oral rental agreement with the landlord.
- b) ☐ a written rental agreement with the landlord.
- c) ☐ an oral rental agreement with a person other than the landlord.
- d) ☐ a written rental agreement with a person other than the landlord.
- e) ☐ other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim of right to possession, the unlawful detainer (eviction) action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

NOTICE TO OCCUPANTS

YOU MUST ACT AT ONCE if all the following are true:

- 1) You are NOT named in the accompanying Summons and Complaint.
- 2) You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is the court filing date on the accompanying Summons and Complaint.)
- 3) You still occupy the premises.

(Where to file this form) You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the reverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.

(What will happen if you do not file this form) If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you will be evicted without a hearing.

1 WILLIAM R. JARRELL, SBN 290271
2 ALDRIDGE PITE, LLP
3 4375 Jutland Drive
4 Suite 200; P.O. Box 17934
San Diego, CA 92177-0934
Telephone: (858) 750-7600
Facsimile: (619) 590-1385

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
FC

SEP 28 2018

BY Precious Loret
DEPUTY

5 Attorney's for Plaintiff CROSBY CAPITAL USA LLC

6
7 **SUPERIOR COURT OF CALIFORNIA**
8 **COUNTY OF SAN BERNARDINO - FONTANA COURTHOUSE**

9 CROSBY CAPITAL USA LLC,

10 Plaintiff,

11 vs.

12 ARDREDA JOHNSON and DOES I through
13 X, inclusive,

14 Defendant(s).

CIVIL ACTION NO.

COMPLAINT FOR UNLAWFUL
DETAINDER AND MONEY DAMAGES

AMOUNT DEMANDED DOES NOT
EXCEED \$10,000

LIMITED CIVIL CASE

ACTION BASED ON CODE OF CIVIL
PROCEDURE SECTION 1161a

15
16 Plaintiff, CROSBY CAPITAL USA LLC ("Plaintiff"), alleges:

17 **CAUSE OF ACTION FOR UNLAWFUL DETAINDER**
18 **AND MONEY DAMAGES**

19 1. Plaintiff is entitled to the possession of, and is the owner of record of a parcel of real
20 property (hereinafter "property") and the dwelling thereon located at 7352 Stonehaven Pl.,
21 Rancho Cucamonga CA 91730, more particularly described as follows:

22 LOT 208, TRACT NO. 8102, IN THE COUNTY OF SAN BERNARDINO,
23 STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 107 OF
24 MAPS, PAGE(S) 5 TO 14, INCLUSIVE, IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY.

25 The property is located within the above-referenced Judicial District and County.

26 2. The true names and capacities, whether individual, corporate, associate or
27 otherwise of the Defendants named herein as DOES I through X in occupancy are unknown to
28 Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will amend this

1 Complaint to show the true names and capacities of such DOE Defendants when they have been
2 ascertained.

3 3. ARDREDA JOHNSON and DOES 1 through X ("Defendant(s)"), and each of
4 them, are currently in possession of and occupying the property.

5 4. Plaintiff purchased the property at a Trustee's Sale held July 3, 2018. Plaintiff's
6 title has been duly perfected.

7 5. Plaintiff has duly recorded the Trustee's Deed Upon Sale, a copy of which is
8 attached hereto as Exhibit "1" and incorporated herein as if set forth in full.

9 6. Defendant was served a 3-Day Written Notice to Vacate (hereinafter "Notice to
10 Vacate") on September 7, 2018. A copy of the Notice to Vacate is attached hereto as Exhibit "2"
11 and incorporated herein as if set forth in full.

12 7. Plaintiff properly served Defendant with the Notice to Vacate in compliance with
13 Code of Civil Procedure § 1162. A copy of the proof of service is attached hereto as Exhibit
14 "3" and incorporated herein as if set forth in full.

15 8. Defendant failed to comply with the requirements of the Notice to Vacate, which
16 expired on or about September 10, 2018.

17 9. Defendant continues in possession of the property unlawfully after expiration of
18 the Notice to Vacate without permission of the Plaintiff and under no right of claim.

19 10. The reasonable value for the use and occupancy of the property is \$53.93 per day.
20 Plaintiff seeks damages in that amount from September 11, 2018 and for each day thereafter,
21 until the date of Judgment herein.

22 11. Plaintiff has performed all the necessary actions and given all the required notices
23 to bring this Unlawful Detainer action.

24 ///

25 ///

26 ///

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1 WHEREFORE, Plaintiff prays for Judgment against Defendant(s) as follows:

- 2 1) For restitution and possession of the property;
- 3 2) For the unpaid fair rental value of \$53.93 per day for use and occupancy of the
- 4 property and premises from September 11, 2018 until rendition of Judgment
- 5 herein; and
- 6 3) For such other and further relief as the Court may deem just and proper.

7

8 Dated: September 24, 2018

ALDRIDGE PITE, LLP

9 

10 WILLIAM R. JARRELL, SBN 290271

11 Attorneys for Plaintiff

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VERIFICATION

State of California)
County of San Diego)

I, WILLIAM R. JARRELL, am the attorney for CROSBY CAPITAL USA LLC, the Plaintiff in this action. Such party is absent from the County where I maintain my office, and I make this verification for and on behalf of that party for that reason. I have read the foregoing Summons and Complaint for Unlawful Detainer and Money Damages and accompanying documents therein and know their contents. I am informed and believe and on that ground allege that matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed September 24, 2018, at San Diego, California.

ALDRIDGE PITE, LLP

By: 
WILLIAM R. JARRELL, SBN 290271
Attorney at Law

EXHIBIT “1”

WHEN RECORDED MAIL TO:
FCI LENDER SERVICES, INC.
8180 EAST KAISER BLVD.
ANAHEIM, CA 92808

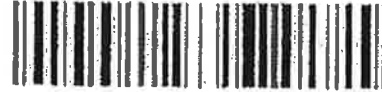
TRA# 015080
 Trust No. P1370585-CA
 Parcel No. 0227-831-17-0-000 AKA 1090-031-17
 Property Address:
7352 STONEHAVEN PLACE
RANCHO CUCAMONGA, CALIFORNIA 91730

Electronically Recorded in Official Records, County of San Bernardino

7/11/2018
03:01 PM
NC

BOB DUTTON
 ASSESSOR - RECORDER - CLERK
 400 First American Title - Default

Doc# 2018-0251675



Titles	1	Pages	2
Fees		27.00	
Taxes		.00	
CA SB2 Fee		75.00	
Others		.00	
Paid		102.00	

MAIL TAX STATEMENT TO:

Same as above

Space Above This Line For Recorder

Documentary Transfer Tax \$0.00

The Grantee Herein was the Foreclosing Beneficiary,
 consideration \$374,326.22
 unpaid debt \$561,635.95
 XX Computed on the consideration or value of
 property conveyed.

___ Computed on the consideration of value less liens
 or encumbrances remaining at time of sale.

FATCO submits this document for
 recording as a courtesy for physical
 convenience only. FATCO has not
 examined this document for its validity,
 sufficiency or effect, if any, upon title to
 the real property described herein.

The undersigned declare under penalty of perjury

Signature of Declarant or Agent

APN 0227-831-17-0-000 AKA 1090-031-17

TRUSTEE'S DEED UPON SALE

Agent to principal-instrumentality of the US Government pursuant to R&T 11926

CLEAR RECON CORP. (herein called trustee)

does hereby grant and convey, but without covenant or warranty, express or implied to **Crosby Capital USA LLC** (herein called Grantee) the real property in the county of **San Bernardino**, State of California described as follows:

Lot 208, Tract No. 8102, in the County of San Bernardino, State of California, as per Map recorded in Book 107 of Maps, Page(s) 5 to 14, inclusive, in the Office of the County Recorder of said County.

The street address and other common designation, if any, of the real property described above is purported to be: **7352 STONEHAVEN PLACE, RANCHO CUCAMONGA, CALIFORNIA 91730**

This conveyance is made pursuant to the authority and powers vested in said Trustee, as Trustee, or Successor Trustee, or Substituted Trustee, under that certain Deed of Trust executed by **ARDREDA JOHNSON, AS A SINGLE WOMAN** as Trustor, recorded 11/20/2006, as Instrument No. 2006-0788066, of official Records in the Office of the Recorded of San Bernardino County, California; and pursuant to the Notice of Default recorded 4/15/2014, as

TS #: P1370585-CA

Instrument No. 2014-0134086, of Official Records of said County, Trustee having complied with all applicable statutory requirements of the State of California and performed all duties required by said Deed of Trust, including, among other things, as applicable, the mailing of copies of notices or the publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the posting of copies of the notice of sale or the publication of a copy thereof.

At the place fixed in the Notice of Trustee's Sale, Trustee sold said property above described at public auction on 7/3/2018 Grantee, being the highest bidder at such sale, became the purchased or said property and paid therefore to said Trustee the bid amount \$374,326.22 in lawful money of the United States, or by the satisfaction, pro tanto, of the obligations then secured by said Deed of Trust.

Date:

CLEAR RECON CORP.

JUL 05 2018

By:

TAMMY LAIRD

FORECLOSURE MANAGER

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

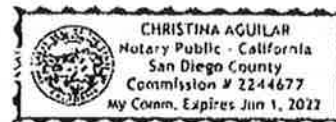
State of California)

County of San Diego)

On JUL 05 2018 before me, Christina Aguilar,
a Notary Public, personally appeared Tammy Laird who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature

Christina Aguilar

MAIL TAX STATEMENTS TO THE ABOVE MENTIONED ADDRESS

EXHIBIT “2”

ALDRIDGE | PITE L.L.P.

Alaska Arizona California Florida Georgia Hawaii Idaho Nevada New Mexico Oregon Texas Utah Washington

NOTICE TO QUIT

CCP SECTION 1161a(b)(3)

TO: ARDREDA JOHNSON
AND ALL OCCUPANTS, TENANTS, OR SUBTENANTS
7352 STONEHAVEN PL., RANCHO CUCAMONGA CA 91730

NOTICE IS HEREBY GIVEN that the above property has been sold in accordance with California Civil Code § 2924 under the power of sale contained in the Deed of Trust encumbering the property.

1. IF YOU ARE A FORMER OWNER OR PARTY TO THE NOTE, OR A SUCCESSOR IN INTEREST TO A FORMER OWNER OR PARTY TO THE NOTE, THEN within three (3) days after service on you of this Notice you are required to quit and deliver up possession of the premises to the undersigned, who is authorized to receive the same. If you fail to deliver possession, this office will institute legal proceedings against you to recover possession of said premises and for rents or damages as provided by law, including statutory damages up to \$600 (six hundred dollars) in addition to any actual damages incurred.

2. IF YOU ARE A BONA FIDE TENANT OF THE FORMER OWNER OF THE PROPERTY (and you are not a child, spouse, or parent of the former owner of the Property), under the Protecting Tenants at Foreclosure Act of 2009 ("PTFA"), you may be entitled to certain rights, including the right to remain in the Property for NINETY (90) days from the date of this Notice. In order to determine what rights you may have under the PTFA please immediately provide us with the following:

- a) A copy of your written lease. (If your lease is not in writing, provide a summary of the lease terms including the beginning date and end date of the lease, monthly rental amount, and all other relevant lease terms);
- b) Proof of your alleged monthly rental amount. (Proof may be shown in your written lease provided it contains the rent amount. If your lease is not in writing, proof may be shown by copies of your cancelled checks or money orders);
- c) Proof that all monthly rental payments dues under the lease have been paid and are current. (Proof may be shown by copies of cancelled checks, money orders, or a signed statement from your landlord stating that you are current on all rental payments due pursuant to the lease);
- d) The names of all occupants of the Property who are over 18 years of age;
- e) Proof of your residency at the Property. (Proof may be in the form of an electric bill, cable bill, phone bill, etc.); and
- f) A current telephone number where you can be reached.

4375 Jutland Drive
P.O. Box 17933
San Diego, CA 92177-0933
(858) 750-7600
www.aldridgepite.com

2 | Page

If you have a Section 8 voucher, you may have additional rights and should provide a copy of this notice to your Section 8 worker.

If it is determined by the New Owner that you are a bona fide tenant and authorized to remain in the property for NINETY (90) days from the delivery date of this notice, you are hereby notified of the following:

- a) That your rental agreement is terminated on the delivery date of this Notice;
- b) That your occupancy is terminated NINETY (90) days following the delivery date of this notice; and
- c) That demand is hereby made for possession on or before NINETY (90) days from the delivery date of this notice.

If you do not surrender possession of the Property on or before that date, the New Owner will seek an order from the court allowing it to remove you and your belongings from the Property.

If you believe you are a bona fide tenant pursuant to the criteria above, please contact our office at (858) 750-7600, within THREE (3) business days of receiving this Notice, to advise us of your lease, provide a copy, and request that your lease be assumed.

3. IF YOU OCCUPY THE SUBJECT PREMISES PURSUANT TO A VALID LEASE, but a party to the note remains in the property as a tenant, subtenant, or occupant, then you must vacate the premises within thirty (30) days of service of this Notice on you. This Notice to you is given pursuant to the provisions of California Code of Civil Procedure §§ 1161a(c) and 1161b(d).

IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS
PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT: Servicemembers on "active duty" or "active service," or a dependent of such a servicemember may be entitled to certain legal protections, including eviction protection, pursuant to the Servicemembers Civil Relief Act ("SCRA"), 50 USC App. §§ 501-596, as amended, and, possibly, certain related State statutes.

Who may be entitled to Legal Protections under the SCRA:

- Active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard and active service National Guard;
- Active service members of the commissioned corps of the National Oceanic and Atmospheric Administration;
- Active service members of the commissioned corps of the Public Health Service;
- United States citizens servicing with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action; and
- Their spouses.

Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator

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Notice to Any Renters Living At

7352 Stonehaven Pl., Rancho Cucamonga CA 91730

The attached notice means that your home was recently sold in foreclosure and the new owner plans to evict you.

You should talk to a lawyer NOW to see what your rights are. You may receive court papers in a few days. If your name is on the papers it may hurt your credit if you do not respond and simply move out.

Also, if you do not respond within five (5) days of receiving the papers, even if you are not named in the papers, you will likely lose any rights you may have. In some cases, you can respond without hurting your credit. You should ask a lawyer about it.

You may have the right to stay in your home for 90 days or longer, regardless of any deadlines stated on any attached papers. In some cases and in some cities with a just cause for eviction law, you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

How to Get Legal Help

PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT. Servicemembers on "active duty" or "active service," or a dependent of such a servicemember may be entitled to certain legal protections, including eviction protection, pursuant to the Servicemembers Civil Relief Act ("SCRA"), 50 USC App. §§ 501-596, as amended, and, possibly, certain related State statutes.

Who may be entitled to Legal Protections under the SCRA:

- Active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard and active service National Guard;
- Active service members of the commissioned corps of the National Oceanic and Atmospheric Administration;
- Active service members of the commissioned corps of the Public Health Service;
- United States citizens servicing with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action; and
- Their spouses.

Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at <http://legalassistance.law.af.mil/content/locator.php>

"Military OneSource" is the U.S. Department of Defense's information resource. If you are listed as entitled to legal protections under the SCRA, please go to www.militaryonesource.com/scra or call

ALDRIDGE PITE
LLP

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1-800-342-9647 (toll free from the United States) for more information. Dialing instructions for areas outside the United States are provided at the website.

If you are a protected servicemember, or a dependent of a protected servicemember, you should contact Aldridge Pite, LLP Evictions Department at (858) 750-7600 immediately to discuss your status under the SCRA.

EXHIBIT “3”

ALDRIDGE PITE, LLP
4375 JUTLAND DRIVE, STE. 200
SAN DIEGO, CA 92177

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino
File number: 1523-021A

PROOF OF SERVICE

I, the undersigned, declare that I served the Notice(s) below indicated:
NOTICE TO QUIT/NOTICE TO ANY RENTERS

The above described Notice(s) were served on the following named parties in the manner set forth below:

NAME: ARDREDA JOHNSON AND ALL OCCUPANTS, TENANTS, OR SUBTENANTS

ADDRESS: 7352 STONEHAVEN PLACE RANCHO CUCAMONGA, CA 91730

☐ 1. PERSONAL SERVICE

By delivering a copy of the Notice(s) to each of the above personally:

(1) on _____

(2) at: _____

☒ 2. CONSTRUCTIVE SERVICE

After due and diligent effort, by service of said Notice(s) as authorized by C.C.P. Section 1162 (2,3) on each of the above named parties in the manner set forth below:

☐ By substituted service on a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers. [CCP § 1162(2)] On (date): _____ at (time): _____ I left the documents with or in the presence of _____

☒ By posting a copy for each of the above named parties on 9-6-18 at 6:44 PM in a conspicuous place on the property;

☒ And thereafter mailing a copy to each said party by depositing said copies in the United States mail on (date): 9-7-18 from (city): Fontana in a sealed envelope with postage fully prepaid, addressed to each said party at their place where the property is situated or,

☐ A declaration of mailing is attached.

At the time of service, I was at least 18 years of age. I declare under penalty of perjury that the foregoing is true and correct.

Person who served papers

a. Name: JEFFERY DUNN

b. Address: ProVest, CA LLC, 4241 Jutland Drive, Suite 203, San Diego, CA 92117

c. Telephone number: 877-789-8848

d. The fee for service was: \$ 90.00

e. I am:

- (1) ☐ not a registered California process server.
(2) ☐ exempt from registration under Business and Professions Code section 22350(b).
(3) ☒ registered California process server:
(i) ☐ owner ☐ employee ☒ independent contractor
(ii) Registration No.: 1479
(iii) County: SAN BERNARDINO

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or
[] I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 9-6-18

JEFFERY DUNN
(NAME OF PERSON, SHERIFF OR MARSHAL WHO SERVED PAPER OR PAPERS)

(SIGNATURE)

PROOF OF SERVICE

ORIGINAL

WILLIAM R. JARRELL, SBN 290271
 ALDRIDGE PITE, LLP
 4375 Jutland Drive
 Suite 200; P.O. Box 17934
 San Diego, CA 92177-0934
 Telephone: (858) 750-7600
 Facsimile: (619) 590-1385

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 FONTANA DISTRICT

NOV 16 2018

Attorney's for Plaintiff CROSBY CAPITAL USA LLC

BY Angelina Prieto
 ANGELINA PRIETO, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SAN BERNARDINO - FONTANA COURTHOUSE**

CROSBY CAPITAL USA LLC,
 Plaintiff(s),

vs.

ARDREDA JOHNSON and DOES I through
 X, inclusive,

Defendant(s).

CIVIL ACTION NO. UDF^S 1806354

**AFFIDAVIT OF WILLIAM R.
 JARRELL IN SUPPORT OF ORDER
 ALLOWING SERVICE BY POST AND
 MAIL IN UNLAWFUL DETAINER;**

ORDER THEREON

The undersigned, WILLIAM R. JARRELL, declares the following under penalty of perjury:

1. I am an attorney at law duly licensed to practice before all of the Courts of the State of California. My office is located in San Diego, California. I am the attorney of record for the plaintiff in the above-entitled matter.

2. On July 3, 2018 a Trustee's Sale was conducted involving the property located 7352 Stonehaven Pl., Rancho Cucamonga CA 91730, County of San Bernardino ("subject property") and is more particularly described as follows:

LOT 208, TRACT NO. 8102, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 107 OF MAPS, PAGE(S) 5 TO 14, INCLUSIVE, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

The purchaser at said Trustee's Sale was CROSBY CAPITAL USA LLC.

3. The Trustee's Deed Upon Sale was duly recorded with the County Recorder of

1 San Bernardino.

2 4. ARDREDA JOHNSON and All Unknown Occupants ("Defendants") of the
3 subject property were served with a 3-Day Notice to Vacate in accordance with Code Civ. Proc.
4 § 1162 on September 7, 2018.

5 5. Having failed to vacate the premises within the statutory time, a verified
6 Complaint for Unlawful Detainer and Money Damages was brought and Summons issued.

7 6. Our firm utilizes ProVest, LLC ("ProVest") to effect service of process.

8 7. On September 28, 2018, ProVest was requested to serve the Summons and
9 Complaint on Ardreda Johnson and All Unknown Occupants personally or by sub-service.

10 1. On November 9, 2018, Amber Ross with ProVest, informed our firm that they
11 were unable to effect service on informed our firm that they were unable to effect service on
12 Defendants either personally or by using due diligence in any other manner specified in Article
13 3, Chapter 4, Title V of the Code of Civil Procedure (see service report marked Exhibit "1" and
14 incorporated herein by reference).

15 2. The business address(es) for Defendants is/are unknown to Plaintiff. Therefore,
16 service must be made at the subject property by posting and mailing, as Defendants are evading
17 Plaintiff's efforts to effect service personally.

18 3. A copy of the Summons and Complaint must be posted at the subject property and
19 mailed by certified mail to Defendants' last known address.

20 4. A copy of the Summons and Complaint must be posted at the subject property and
21 mailed by certified mail to Defendants' last known address.

22 8. Pursuant to Code Civ. Proc. § 415.45, a summons in an action for unlawful
23 detainer of real property may be served by posting if upon affidavit it appears to the satisfaction
24 of the court in which the action is pending that the party to be served cannot with reasonable
25 diligence be served.

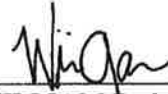
26 ///

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1 Therefore, I respectfully request an Order be signed allowing service by post and mail,
2 pursuant to Code Civ. Proc. § 415.45. **I declare under penalty of perjury under** the laws of the
3 State of California that the foregoing is true and correct.

4 Executed on November 12, 2018, at San Diego, California.

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6 

7 WILLIAM R. JARRELL, SBN 290271
8 Attorney for Plaintiff
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EXHIBIT “1”

DECLARATION RE DILIGENCE

Attorney or Party without attorney:
 WILLIAM R. JARRELL, BAR # 290271
 ALDRIDGE PITE, LLP (CA)
 4375 Jutland Drive Suite 200
 San Diego, CA 92177-0934
 Telephone Number: 8587507600

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN
 BERNARDINO**

PLAINTIFF: CROSBY CAPITAL USA LLC

DEFENDANT: ARDREDA JOHNSON, ET AL.

DECLARATION RE DILIGENCE

CASE NUMBER: UDF1806354
 FILE NUMBER: 1523-021A
 LEVY OFFICER NUMBER:

I, JEFFERY DUNN, declare

I am a Registered Process Server and was retained to serve process in the above-referenced matter on the following person or entity: ARDREDA JOHNSON

I was on the dates herein mentioned over the age of eighteen years and not a party to the above-entitled action. I am authorized to server legal process in the State of California. The following facts are within my personal knowledge and if sworn as a witness I can and will truthfully and competently testify thereto.

Documents: PREJUDGMENT CLAIM TO RIGHT OF POSSESSION; CIVIL CASE COVER SHEET, SUMMONS AND COMPLAINT

I attempted personal service on the following dates and times with the following results:

Residential Address: 11-1-18
9:56 AM
 7352 STONEHAVEN PLACE
 RANCHO CUCAMONGA, California
 91730

Date, Time and Results:

Need OTP

10-25-18 / 8:54 AM - NO ANSWER OR ANY ACTIVITY
 10-27-18 / 2:05 PM - NO ANSWER
 10-29-18 / 5:06 PM - NO ANSWER
 10-31-18 / 10:52 AM - NO ANSWER

Business Address:

☐ unknown

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct and this declaration is executed on 11-2-18 at FONTANA, California.
 DATE CITY

Signature

JEFFERY DUNN

Printed Name

#1479 / SAN BERNARDINO

Registration # / Registration County

DECLARATION RE DILIGENCE
 VIA FAX FILE

Page 1 of 1
 Case ID: 5312160

ATTORNEY OR PARTY WITHOUT ATTORNEY: ALDRIDGE PITE, LLP 4375 JUTLAND DRIVE, STE. 200 SAN DIEGO, CA 92177		
San Bernardino SUPERIOR COURT OF THE STATE OF CALIFORNIA		
PLAINTIFF: CROSBY CAPITAL USA LLC		
DEFENDANT: ARDREDA JOHNSON, ET AL.		
DECLARATION RE DILIGENCE		CASE NUMBER: UDF1806354 FILE NUMBER: 1523-021A

I, JEFFERY DUNN, declare:
SERVER NAME

I am a Registered Process Server and was retained to serve process in the above-referenced matter on the following person or entity:

DOES 1 THROUGH X, INCLUSIVE

I was on the dates herein mentioned over the age of eighteen years and not a party to the above-entitled action. I am authorized to serve legal papers in the State of California. The following facts are within my personal knowledge and if sworn as a witness I can and will truthfully and competently testify thereto.

CIVIL CASE COVER SHEET, SUMMONS, COMPLAINT, PREJUDGMENT
 Documents: CLAIM OF RIGHT TO POSSESSION

I attempted personal service on the following dates and times with the following results:

Service Address: 7352 STONEHAVEN PLACE RANCHO CUCAMONGA, CA 91730

Results, including dates/times/description of the person encountered (if applicable):

10/25/2018 - 8:54AM - NO ANSWER OR ANY ACTIVITY

10/27/2018 - 2:05PM - NO ANSWER

10/29/2018 - 5:06PM - NO ANSWER

10/31/2018 - 10:52AM - NO ANSWER

11/1/2018 9:56AM - NEED OTP

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct and this declaration is executed on 11-2-18 at FORTANA, CA.

DATE

CITY, STATE

SERVER SIGNATURE

JEFFERY DUNN

SERVER NAME

SAN BERNARDINO #1473

REGISTRATION NUMBER & COUNTY

PSI-DD (2-07)

DECLARATION RE DILIGENCE

ORIGINAL

WILLIAM R. JARRELL, SBN 290271
 ALDRIDGE PITE, LLP
 4375 Jutland Drive
 Suite 200; P.O. Box 17934
 San Diego, CA 92177-0934
 Telephone: (858) 750-7600
 Facsimile: (619) 590-1385

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 FONTANA DISTRICT

NOV 16 2018

BY Angelina Prieto
 ANGELINA PRIETO, DEPUTY

Attorney's for Plaintiff CROSBY CAPITAL USA LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO - FONTANA COURTHOUSE

CROSBY CAPITAL USA LLC,

Plaintiff(s),

vs.

Ardreda Johnson and DOES I through X,
 inclusive,

Defendant(s).

CIVIL ACTION NO.: UDF^S 1806354

ORDER FOR SERVICE OF SUMMONS
 AND COMPLAINT BY POSTING AND
 MAILING (CCP § 415.45)

Upon reading the evidence filed consisting of an affidavit as provided in Code Civ. Proc. § 415.45 by Plaintiff's counsel, William R. Jarrell, and it satisfactorily appearing therefrom that the parties to be served cannot be served with reasonable diligence in any other manner specified in Article 3, Chapter 4, Title V of the Code of Civil Procedure other than publication, and it also appearing from the verified Complaint that a good cause exists in the action in favor of CROSBY CAPITAL USA LLC ("Plaintiff"); and it further appearing the persons to be served are necessary or proper parties to the action; and the relief demanded in the action consists wholly or in part in excluding such parties from any interest in the subject property:

IT IS ORDERED that service of process shall be made by posting the Summons, Complaint and Prejudgment Claim of Right to Possession on the premises in a manner most likely to give actual notice to the parties to be served; and

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1 IT IS FURTHER ORDERED that a copy of the Summons, Complaint and Prejudgment
2 Claim of Right to Possession in this action be FORTHWITH MAILED by **certified mail** to such
3 parties at their last known address.

4 Service address:

5 7352 Stonehaven Pl., Rancho Cucamonga CA 91730

6 Parties to be served:

7 **ARDREDA JOHNSON**

8 IT IS FURTHER ORDERED that a copy of the Summons, Complaint and Prejudgment Claim
9 of Right to Possession in this action be FORTHWITH MAILED by first-class mail to such
10 parties at their last known address.

11 Service address:

12 7352 Stonehaven Pl., Rancho Cucamonga CA 91730

13 Parties to be served:

14 **All Unknown Occupants**

15 Service in this matter is deemed complete on the 10th day after posting and mailing.

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18 Dated: **NOV 16 2019**

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JUDGE OF THE SUPERIOR COURT

Fax No. (909) 320-5049

MC-005

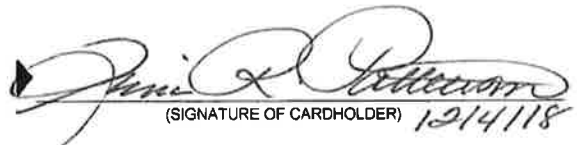
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): ARDREDA JOHNSON 7352 STONEHAVEN PLACE RANCHO CUCAMONGA, CA 91730 TELEPHONE NO : (909) 268-0506 FAX NO (Optional): (888) 521-7542 E-MAIL ADDRESS (Optional): ardreda@aol.com ATTORNEY FOR (Name): DEFENDANT IN PRO PER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS : 17780 ARROW BLVD. MAILING ADDRESS : 17780 ARROW BLVD. CITY AND ZIP CODE : FONTANA, CA 92335 BRANCH NAME : FONTANA DISTRICT COURTHOUSE	
PLAINTIFF/PETITIONER: CROSBY CAPITAL USA LLC DEFENDANT/RESPONDENT: ARDREDA JOHNSON, ET AL	
FACSIMILE TRANSMISSION COVER SHEET	CASE NUMBER: UDFS1806354

TO THE COURT:1. **Please file** the following transmitted documents in the order listed below:

<u>Document name</u>	<u>No. of pages</u>
NOTICE OF MOTION AND MOTION TO STRIKE COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES WITH PROOF OF SERVICE	16
PROPOSED ORDER	2

2. ☒ **Processing instructions** consisting of: 1 pages are also transmitted.3. ☒ **Fee required** ☒ Filing fee ☒ Fax fee (Cal. Rules of Court, rule 10.815)a. ☐ **Credit card payment** I authorize the above fees and any amount imposed by the card issuer or draft purchaser to be charged to the following account:☒ VISA ☐ MASTERCARD Account No.: 4427427057849368 Expiration date: 01/21TRINA R. PATTERSON

(TYPE OR PRINT NAME OF CARDHOLDER)



(SIGNATURE OF CARDHOLDER) 12/4/18
b. ☐ **Attorney account** (Cal. Rules of Court, rule 2.304). Please charge my account no.:

ARDREDA JOHNSON
7352 Stonehaven Place
Rancho Cucamonga, CA 91730
Phone: (909) 268-0506
Facsimile: (888) 521-7542
Email: ardreda@aol.com

DEFENDANT IN PRO PER

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
FONTANA DISTRICT COURTHOUSE**

CROSBY CAPITAL USA LLC,

Plaintiff,

V.

ARDREDA JOHNSON; and DOES 1-10,
inclusive,

Defendants.

Case No. UDFS1806354

**NOTICE OF MOTION AND MOTION
TO STRIKE COMPLAINT;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ARDREDA JOHNSON**

Date: December 31, 2018
Time: 8:00 a.m.
Dept: F7

TO PLAINTIFF THE PARTIES AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Monday, December 31, 2018, or as soon after that as the matter can be heard, at 8:00 a.m. in Department F7 of the above-entitled court located at 17780 Arrow Blvd., Fontana, CA 92335, Defendant, ARDREDA JOHNSON, will and hereby does move this Court for an order striking the entire Complaint of Plaintiff, CROSBY CAPITAL

1 USA LLC, hereinafter referred to as CCU, on the grounds that the Complaint is (1) filed by an
 2 unregistered entity according to the California Secretary of State; (2) is not the real party in
 3 interest pursuant to California *Code of Civil Procedure* §367; (3) the Complaint is not verified as
 4 required by California *Code of Civil Procedure* § 1166(a)(1), the verification of the Complaint is
 5 signed by the attorney for Plaintiff and is not in accordance with *Code of Civil Procedure* §446.

7 In the alternative, this Moving Defendant will further move this Court for an order striking
 8 certain portions of the Complaint of Plaintiff, on file herein, namely the portions on Page 1 of the
 9 Complaint, paragraph 1 where there is an allegation that Plaintiff is entitled to possession of, and
 10 is the owner of record of property located at 7352 Stonehaven Pl, Rancho Cucamonga, CA
 11 91730; page 2, paragraph 4 where there is an allegation Plaintiff purchased property at a
 12 Trustee's Sale; paragraph 5 where there is an allegation Plaintiff duly recorded a Trustee's Deed
 13 Upon Sale, hereinafter referred to as "TDUS," and duly perfected title; paragraph 7 of the
 14 Complaint where there is an allegation Plaintiff properly served Defendant a Notice to Vacate in
 15 compliance with California *Code of Civil Procedure* §1162; paragraph 9 where there is an
 16 allegation that Defendant continues in possession without permission of Plaintiff; paragraph 10
 17 of the Complaint where there is an allegation for damages and rental value of \$53.93 per day;
 18 and the prayer of the Complaint, paragraph 3 where Plaintiff is requesting restitution of the
 19 property, unpaid rental value of \$53.93 per day and other such relief as the Court may deem just
 20 and proper. The grounds for this Motion to Strike are set forth below.

24 MOTION TO STRIKE PLAINTIFF'S COMPLAINT

25 This Motion to Strike is made pursuant to *Code of Civil Procedure* §§435-437 on the
 26 grounds that the Complaint is not verified as required by *Code of Civil Procedure* §1166(a)(1),
 27 and therefore the entire complaint should be stricken, on the grounds that the Complaint is not
 28

1 verified as required by *Code of Civil Procedure §1166(a)(1)*, the verification of the Complaint is
 2 signed by the attorney for Plaintiff and is not in accordance with *Code of Civil Procedure §446*,
 3 thus the entire complaint should be stricken, furthermore, pursuant to California Corporations
 4 Code §2105, Plaintiff does not have capacity to “maintain” this action because it is not a
 5 registered LLC with the California Secretary of State and Plaintiff is not the real party in interest.
 6 California *Code of Civil Procedure §367* provides that “Every action must be prosecuted in the
 7 name of the real party in interest”. Defendant alleges Plaintiff is a “debt collector” pursuant to
 8 the plain definition under the California Fair Debt Collection Practices Act, hereinafter referred
 9 to as the “Rosenthal Act,” who is misrepresenting themselves as creditors. Defendant contends
 10 Plaintiff was a debt collector who did not have the authority or right to enforce the power of sale
 11 contained in the Deed of Trust. A debt collector has no standing to enforce a security interest or
 12 evade liability and prevent Defendant from pursuing her Rosenthal Act claims against Plaintiff.
 13

14
 15
 16 1. The Complaint should be stricken on the grounds that the Complaint is not verified as
 17 required by *Code of Civil Procedure §1166(a)(1)*, and therefore the entire Complaint should be
 18 stricken.

19
 20 2. The Complaint should be stricken on the grounds that the verification of the Complaint
 21 is not verified by the Plaintiff but the attorney for Plaintiff, who is unregistered in the State of
 22 California, and is not in accordance with *Code of Civil Procedure §446*, thus the entire
 23 Complaint should be stricken

24
 25 3. The Complaint should be stricken on the grounds that the Complaint is not in the name
 26 of the real party in interest in accordance with *Code of Civil Procedure §367* and is not a
 27 registered entity as they claim to be in accordance with California Corporations Code §2105 and
 28 thus Plaintiff does not have the capacity to “maintain” this action against her.

1 4. The portion at paragraph 1 where there is an allegation that Plaintiff CCU is entitled to
2 immediate possession of property located at 7352 STONEHAVE PL, RANCHO
3 CUCAMONGA, CA. 91739.

4
5 5. The portion at paragraph 4 where there is an allegation that Plaintiff CCU purchased
6 property at a Trustee's Sale held on July 3, 2018.

7 6. The portion at paragraphs 6 and 7 where there are allegations that Defendant was
8 served with a valid Notice to Vacate in Compliance with California Code of Civil Procedure
9 §1162.

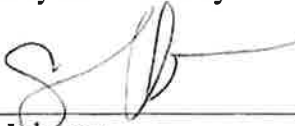
10
11 7. The portion at paragraph 10 where there is an allegation that Plaintiff is entitled to a
12 reasonable rental value of \$53.93.

13 8. The prayer portion of the Complaint on page 3 where it requests restitution and
14 possession of the Property, damages, unpaid fair rental value of \$53.93 per day, and such other
15 and further relief as the Court deems just and proper."

16
17 This motion to strike is based upon this notice and the attached motion to strike, the
18 memorandum of points and authorities in support thereof, served and filed herewith, the
19 complete court records on file in this action and upon such other further written or oral evidence
20 as may be presented at the time of hearing of this motion.

21
22
23 DATED: December 3, 2018

24 Respectfully submitted by:

25 
26 _____
27 Ardreda Johnson
28 Defendant

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS**

4 This case is an unlawful detainer case seeking possession of the premises located at
5 7352 Stonehaven Place, Rancho Cucamonga, CA 91730. See Plaintiff's complaint on file.

6 Moving Defendant contends that the entire Complaint should be stricken on the grounds
7 that the Complaint is not verified as required by *Code of Civil Procedure §1166(a)(1)*.
8

9 Moving Defendant also contends that the entire complaint should be stricken on the
10 grounds that the verification of the Complaint is signed by the attorney for Plaintiff and is not in
11 accordance with *Code of Civil Procedure §446*.
12

13 Moving Defendant also contends that the entire complaint should be stricken on the
14 grounds that the verification of the Complaint is not in the name of the real party in interest in
15 accordance with *Code of Civil Procedure §367*.
16

17 Moving Defendant further contends that the following portions of the Complaint should be
18 stricken, namely the portions on Page 1 of the Complaint, paragraph 1 where there is an
19 allegation that Plaintiff is the owner of the Property, page 2, the portion at paragraphs 4 and 5, by
20 virtue of the TDUS, duly perfected title and entitled to immediate possession of the Property, the
21 portion at paragraphs 6 and 7 where there is an allegation that Plaintiff properly served
22 Defendant with a Notice to Vacate pursuant to California *Code of Civil Procedure §1162*, the
23 portion at paragraph 10 where there is an allegation that Plaintiff seeks damages in the amount of
24 \$53.93 per day, and page 3 of the Complaint where it requests restitution and possession of
25 Property, damages and other and further relief as the Court deems just and proper.
26
27

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II. LEGAL ARGUMENT

A. A MOTION TO STRIKE IS APPROPRIATE WHERE THE COMPLAINT IS NOT DRAWN IN CONFORMITY WITH THE LAWS OF THIS STATE

Code of Civil Procedure §436 states in pertinent part that a motion to strike may be filed to strike any irrelevant matter inserted in any pleading, and to strike any pleading or part thereof not drawn in conformity with the laws of this state.

Moving Defendant contends that the entire Complaint should be stricken on the grounds that the Complaint is not verified as required by *Code of Civil Procedure* §1166(a)(1). Thus, the Complaint is not drawn in conformity with the laws of this state.

Moving Defendant also contends that the entire Complaint should be stricken on the grounds that it is not properly verified as required by *Code of Civil Procedure* §1166(a)(1), in that there is no agent for the Plaintiff because Plaintiff is not registered with the California Secretary of State. The purported verification by the attorney for Plaintiff, William R. Jarrell and not in accordance to *Code of Civil Procedure* §446(a) which states the following:

“When a corporation is a party, the verification may be made by any *officer* thereof. When the state, any county thereof, city, school district, district, public agency, or public corporation, or an officer of the state, or of any county thereof, city, school district, district, public agency, or public corporation, in his or her official capacity is plaintiff, the complaint need not be verified; and if the state, any county thereof, city, school district, district, public agency, or public corporation, or an officer of such state, county, city, school district, district, public agency, or public corporation, in his or her official capacity is defendant, its or his or her answer need not be verified.

An agent is not an officer of a corporation and therefore, the Complaint has not been verified and thus, it is not drawn in conformity with the laws of this state. Because of the advanced means of communication possible today there are essentially very few situations where a client is truly unavailable to sign a verification. And this case is not one of them. Instead the Complaint is

1 generically signed by Plaintiff's attorney who purportedly is a qualified individual with personal
 2 knowledge of the facts pertaining to this case. Defendant alleges Attorney William R. Jarrell
 3 does not have personal knowledge of this case and therefore the verification is improper and
 4 should be stricken, and Plaintiff should be required to properly verify the complaint by
 5 appointing an officer who has personal knowledge to sign a proper verification.
 6

7 Plaintiff contends if subject matter jurisdiction does not exist, the merits are never reached
 8 because the Court has no legal authority to proceed to the merits if it determines it has no
 9 jurisdiction. The trial court has the duty to decide in the first instance whether it has jurisdiction
 10 of the subject matter and the parties. This process will involve the determination of jurisdictional
 11 facts and of jurisdictional questions of law. *Abelleria v. District Court of Appeal* (1941) 17
 12 Cal.2d 280, 302 [109 P.2d 942, 132 A.L.R. 715]. Defendant disputes the validity of the
 13 truthfulness of the verification of the Complaint and the whole thereof. As such, Defendant
 14 challenges the Subject Matter Jurisdiction.
 15
 16

17 Without a properly verified Complaint before the court, the court lacks subject matter
 18 jurisdiction. The judgment of a court lacking jurisdiction over the subject matter is void. *Kulko*
 19 *v. California Superior Court* (1978) 436 U.S. 84, 91, 98 S. Ct. 1690, 56 L.Ed. 2d 132, 141;
 20 *Hanson v. Denckla* (1958) 357 U.S. 235, 250, 78 S. Ct. 1228, 2 L.Ed. 2d 1283.
 21

22 California courts have the right and obligation to deter fraudulent claims from proceeding
 23 in court, by dismissing an entire action with prejudice, when a plaintiff lies about matters which
 24 go to the heart of the claim, or where fabrications undermine the integrity of the entire action. In
 25 the case herein, Plaintiff has lied about their legal status in the state of California, they have lied
 26 about being the purported "foreclosing beneficiary" and they have fabricated verification of the
 27 Complaint by Plaintiff's attorney who claims to have personal knowledge of the Complaint.
 28

1 The Court has the inherent authority, in the exercise of its sound judicial discretion, to
 2 dismiss an action where the plaintiff has perpetrated a fraud on the court, and where the
 3 misconduct of a party has affected the entire proceeding. Defendant contends that Plaintiff,
 4 CCU, has acted unlawfully and in bad faith by attempting to proceed with a fraudulent claim
 5 before this court.
 6

7 If an unlawful detainer complaint is not properly verified as required by *Code of Civil*
 8 *Procedure §446* the court may strike the entire Complaint on a motion by defendant. *Ware v.*
 9 *Stafford* (1962) 206 Cal.App. 2d 232, 237.
 10

11 **B. PLAINTIFF IS AN LLC THAT IS NOT QUALIFIED TO TRANSACT BUSINESS**
 12 **IN CALIFORNIA**

13 A search in the California Secretary of State's database indicates that Plaintiff is an
 14 unregistered LLC that has failed to obtain a "certificate of qualification" from the California
 15 Secretary of State as required by California *Corporations Code § 2105* and therefore may not
 16 "maintain any action or proceeding commenced prior to compliance with *Section 2105*" upon
 17 intrastate business as specified in *Corporations Code § 2203(c)*. LLC's that have not "qualified"
 18 may not "maintain" any action or proceeding commenced prior to compliance with *Section 2105*
 19 upon intrastate business. *See Corporations Code § 2203(c)*.
 20

21 *Section 2203(c)*, bars "maintaining" an action based on intrastate business transacted in
 22 California. *See United Med. Management Ltd. v. Gatto* (1996) 49 Cal.App.4th 1732, 1739.
 23 Thus, the Court should grant Defendant's Motion and require Plaintiff to perform their
 24 mandatory requirements under the law.
 25

26 **C. PLAINTIFF IS NOT THE REAL PARTY IN INTEREST AND HAS NOT**
 27 **PERFECTED TITLE AND THUS THE COMPLAINT SHOULD BE STRICKEN**

28 As an alternative to striking the entire complaint, this Moving Defendant contends that the

1 following portions of the complaint should be stricken, namely the portions on Page 1 of the
 2 Complaint, paragraph 1 where there is an allegation that Plaintiff is the owner of the Property,
 3 Page 2 of the Complaint, paragraphs 4 and 5 where there are allegations that Plaintiff purchased
 4 Property and thereafter duly perfected title by way of a TDUS, paragraphs 6 and 7 where there
 5 are allegations that Plaintiff properly served Defendant with a valid Notice to Vacate in
 6 compliance with California *Code of Civil Procedure* §1162, paragraph 10 where there is an
 7 allegation Plaintiff is entitled to damages and unpaid rent in the amount of \$53.93 per day, and
 8 Page 3 of the Complaint where Plaintiff is requesting restitution and possession of Property,
 9 damages and unpaid rent, and other relief as the Court may deem just and proper.
 10

11
 12 In an unlawful detainer action brought pursuant to *Code of Civil Procedure* section 1161a,
 13 subdivision (b)(3), the Plaintiff must show that he/she/they acquired the property at a regularly
 14 conducted sale and thereafter “duly perfected” title. *Stephens v. Hollis* (1987) 196 Cal.App.3d
 15 948; 952; *Evans v. Superior Court* (1977) 67 Cal.App.3d 162, 169.) “[W]here the plaintiff in the
 16 unlawful detainer action is the purchaser at a trustee’s sale, he or she ‘need only prove a sale in
 17 compliance with the statute and deed of trust, followed by purchase at such sale, and the
 18 defendant may raise objections only on that phase of the issue of title.’” *Old National Fin.*
 19 *Services v. Seibert* (1987) 194 Cal.App.3d 460, 465.) “The statute” with which a post-
 20 foreclosure plaintiff must prove compliance is California *Civil Code* § 2924. *Seidell v. Anglo-*
 21 *California Trust Co.* (1942) 55 Cal.App.2d 913, 920.) In addition, under such unlawful detainer
 22 statutes, it has been held that title, to the extent required by section 1161a, “**not only may, but**
 23 **must**, be tried in such actions if the provisions of the statutes extending the remedy beyond the
 24 cases [55 Cal.App.2d 921] where the conventional relation of landlord and tenant exists are not
 25 to be judicially nullified.” *Nineteenth Realty Co. v. Diggs*, 134 Cal.App. 278, 289 [25 P.2d 522];
 26
 27
 28

1 *Mortgage Guarantee Co. v. Smith*, 9 Cal.App.2D 618 [50 P.2d 835].) A plaintiff in an unlawful
 2 detainer action under *Code of Civil Procedure section 1161a* who has purchased property at a
 3 trustee's sale and seeks to evict the occupant in possession "must show that he acquired the
 4 property at a regularly conducted sale and thereafter 'duly perfected' his title. ([former] § 1161a,
 5 *subd. 3.*)" *Vella v. Hudgins* (1977) 20 Cal.3d 251, 255. Thus, herein, Plaintiff has not provided
 6 any evidence of duly perfected title.
 7

8 In the case at bar, Plaintiff has failed to provide any evidence to support their claim that
 9 they were the "foreclosing beneficiary". A TDUS is insufficient proof to evidence that Plaintiff
 10 acquired the property at a regularly conducted sale and thereafter duly perfected title. Title is
 11 duly perfected when all steps have been taken to make it perfect, i.e., to convey to the purchaser
 12 that which he has purchased, valid and good beyond all reasonable doubt, which includes good
 13 record title.
 14

15 The Complaint shows on its face that Plaintiff lacks standing. *Code of Civil Procedure*
 16 §367 states: "Every action must be prosecuted in the name of the real party in interest. A real
 17 party in interest is one having an actual and substantial interest in the subject matter of the action
 18 and who would be benefited or injured by the judgment in the action. A real party in interest
 19 ordinarily is defined as the person possessing the right sued upon by reason of the substantive
 20 law. The real party in interest has 'an actual and substantial interest in the subject matter of the
 21 action,' and stands to be 'benefited or injured' by a judgment in the action. Defendant contends
 22 that Plaintiff is not the real party in interest because they did not have rights under the power of
 23 sale contained in the Deed of Trust and were not Defendant's creditor. Plaintiff CCU
 24 purportedly acquired their interest or claim in Defendant's consumer credit transaction on
 25 January 18, 2018 when the consumer credit transaction was contractually due for the March 1,
 26
 27
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2011 payment. By the plain language of the “Rosenthal Act,” Plaintiff is a debt collector who did not have the authorization or right to enforce the power of sale contained in the Deed of Trust. Only creditors have the right and authority to enforce the power of sale contained in a Deed of Trust.

A California Court of Appeal has ruled that if a claim of right appears on the face of a complaint which is legally invalid that the complaint is subject to a Motion to Strike.

“We conclude that when a substantive defect is clear from the face of a complaint, such as a violation of the applicable statute of limitations or a purported claim of right which is legally invalid, a defendant may attack that portion of the cause of action by filing a motion to strike”. *PH II, Inc. v. Superior Court* (1995) 33 Cal.App. 4th 1680, 1682-1683.

Clearly the portions of the Complaint mentioned in this Motion to Strike should be stricken on the grounds that they claim a right which is legally invalid.

D. STANDARDS GOVERNING NOTICES TO QUIT HAVE NOT BEEN SATISFIED

As confirmed by the California Supreme Court in *U.S. Financial, L.P. v. Michael McLitus*, 6 Cal. App.5th Supp.1 2016, unless and until the Plaintiff has duly perfected title, an unlawful detainer action for possession is not yet ripe for determination. *Stonehouse Homes v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 540-541.

Title is duly perfected when all steps have been taken to make it perfect, i.e., to convey to the purchaser that which he has purchased, valid and good beyond all reasonable doubt..., which includes good record title..., but is not limited to good record title, as between the parties to the transaction. The term ‘duly’ implies that all of those elements necessary to a valid sale exist, else there would not be a sale at all.

Kessler v. Bridge (1958) 161 Cal.App.2d Supp. 837, 841.

As stated by the California Supreme Court: “The property must be sold by public auction

1 to the highest bidder (§2924h) to whom title is transferred by a trustee's deed. Thereafter, upon
 2 recording of this deed, the purchaser is entitled to bring an unlawful detainer action against the
 3 trustor in order to get possession of the property. California *Code of Civil Procedure* §1161a.
 4 *Garfinkle v. Superior Court* (1978) 21 Cal.3d 268, 275, *italics added*. And as more recently
 5 reiterated by the Court of Appeal in *Salazar v. Thomas* (2015) 236 Cal.App.4th 467: "After the
 6 trustee's deed has been recorded, the purchaser is entitled to bring an unlawful detainer action
 7 against the borrower-trustor or his or her successor to obtain possession of the property.
 8

9 "A valid three-day pay rent or quit notice is a prerequisite to an unlawful detainer action.
 10 Because of the summary nature of an unlawful detainer action, a notice is valid only if the lessor
 11 strictly complies with the statutorily mandated notice requirements. *Bevill v. Zoura* (1994) 27
 12 Cal.App.4th 694, 697.
 13

14 A defective notice cannot support an unlawful detainer judgment for possession.
 15 Defendant contends the statutory mandatory requirements pursuant to California *Civil Code*
 16 §2924, *et seq.* were not met and title was not duly perfected. Absent a sale in accordance with
 17 §2924, *et seq.* **and** a duly perfected title prior to the issuance of the notice, a post-foreclosure
 18 purchaser cannot avail itself of a summary unlawful detainer eviction proceeding.
 19
 20

21 III.

22 CONCLUSION

23 Based on the foregoing, Defendant requests that the Court grant her Motion to Strike the
 24 entire Complaint of Plaintiff, or in the alternative, that the Court order that the portions of
 25 Plaintiff's Complaint mentioned above be stricken.
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1 DATED: December 3, 2018

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4 Defendant
5 Ardreda Johnson
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DECLARATION OF ARDREDA JOHNSON

I, ARDREDA JOHNSON, declare as follow:

1. I am over the age of 18 years and am a party to this action. I have personal knowledge of the facts stated in this declaration, and if called as a witness, could and would testify competently to the truth of the facts as stated herein.

2. I have personally read the entire Complaint filed with this Court on September 28, 2018. The Complaint lists CROSBY CAPITAL USA, LLC in the caption of the Complaint as the Plaintiff and ARDREDA JOHNSON as Defendant.

3. Based on my information and belief, CROSBY CAPITAL USA, LLC, was not the “foreclosing beneficiary” of my debt consumer credit transaction, as stated on the Trustee’s Deed Upon Sale, but a debt collector without a beneficial, economic or pecuniary interest in my consumer credit transaction as defined by the California Fair Debt Collection Practices Act, hereinafter referred to as the “Rosenthal Act,” California *Civil Code* §1788.2(c).

4. My consumer credit transaction was in default and due for the March 1, 2011 payment when Plaintiff allegedly acquired an interest or claim on January 18, 2018. By the plain language of the Rosenthal Act, Plaintiff is a debt collector and not a creditor. As such, CROSBY CAPITAL USA, LLC has no standing to file this unverified Complaint against me. Only “creditors” have the power to enforce a power of sale contained in a Deed of Trust.

5. After receiving Plaintiff’s unverified Complaint, Plaintiff performed a search with the California Secretary of State. Based on my search, I learned that Plaintiff is not an authorized LLC with the authorization to conduct business or maintain a lawsuit against me.

6. I am requesting that the Court inspect the court record to determine if it has subject

1 matter jurisdiction over this unverified Complaint. Based on information and belief, the court
2 owes me, the Defendant, a duty to inspect the record and upon finding that it does not have
3 jurisdiction or subject matter jurisdiction should note the deficiencies and dismiss the Complaint.
4

5
6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct and that this Declaration was executed on December 3, 2018 at
8 Rancho Cucamonga, California.
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12 Ardreda Johnson
Defendant
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PROOF OF SERVICE

Crosby Capital USA, LLC v. Ardreda Johnson, et al
Case No. UDFS1806354

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)

I am a resident of the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action. My business address is 12223 Highland Avenue, #106-355, Rancho Cucamonga, CA 91739.

On December 3, 2018, I served the foregoing documents described as **NOTICE OF MOTION AND MOTION TO STRIKE COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF ARDREDA JOHNSON** on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

Aldridge Pite, LP
 c/o William R. Jarrell
 4375 Jutland Drive, Suite 200
 San Diego, CA 92177-0934
 (619) 590-1385 Fax

XX BY U.S. REGULAR MAIL: I deposited the sealed envelope(s) with the U.S. Postal Service in Rancho Cucamonga, California, with postage fully prepaid.

____ BY FACSIMILE MACHINE: I sent a copy via transmission to the telefax number(s) indicated above to the respective parties. The facsimile machine I used complied with California Rules of the Court, Rule 2003 and no error was reported by machine.

____ BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the above addressee(s).

XX (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 3, 2018, at Rancho Cucamonga, California.


 Tina Patterson

PROOF OF SERVICE

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

Fax No. (909) 320-5049

MC-005

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): ARDREDA JOHNSON 7352 STONEHAVEN PLACE RANCHO CUCAMONGA, CA 91730 TELEPHONE NO : (909) 268-0506 FAX NO. (Optional): (888) 521-7542 E-MAIL ADDRESS (Optional): ardreda@aol.com ATTORNEY FOR (Name): DEFENDANT IN PRO PER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS : 17780 ARROW BLVD. MAILING ADDRESS : 17780 ARROW BLVD. CITY AND ZIP CODE : FONTANA, CA 92335 BRANCH NAME : FONTANA DISTRICT COURTHOUSE	
PLAINTIFF/PETITIONER: CROSBY CAPITAL USA LLC DEFENDANT/RESPONDENT: ARDREDA JOHNSON, ET AL	
FACSIMILE TRANSMISSION COVER SHEET	CASE NUMBER: UDFS1806354

TO THE COURT:

1. **Please file** the following transmitted documents in the order listed below:

<u>Document name</u>	<u>No. of pages</u>
AMENDED FIRST PAGE TO NOTICE OF MOTION AND MOTION TO STRIKE COMPLAINT	1
PROOF OF SERVICE	1

2. ☒ **Processing instructions** consisting of: 1 pages are also transmitted.

3. ☒ **Fee required** ☐ Filing fee ☒ Fax fee (Cal. Rules of Court, rule 10.815)

- a. ☐ **Credit card payment** I authorize the above fees and any amount imposed by the card issuer or draft purchaser to be charged to the following account:

☒ VISA ☐ MASTERCARD Account No.: 4427427057849368 Expiration date: 01/21

TRINA R. PATTERSON

(TYPE OR PRINT NAME OF CARDHOLDER)


 (SIGNATURE OF CARDHOLDER) 12/4/18

- b. ☐ **Attorney account** (Cal. Rules of Court, rule 2.304). Please charge my account no.:

AMENDED

ARDREDA JOHNSON
7352 Stonehaven Place
Rancho Cucamonga, CA 91730
Phone: (909) 268-0506
Facsimile: (888) 521-7542
Email: ardreda@aol.com

DEFENDANT IN PRO PER

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
FONTANA DISTRICT COURTHOUSE**

CROSBY CAPITAL USA LLC,

Plaintiff,

v.

ARDREDA JOHNSON; and DOES 1-10,
inclusive,

Defendants.

Case No. UDFS1806354

**NOTICE OF MOTION AND MOTION
TO STRIKE COMPLAINT;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ARDREDA JOHNSON**

Date: December 31, 2018

Time: 8:00 a.m.

Dept: F8

TO PLAINTIFF THE PARTIES AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Monday, December 31, 2018, or as soon after that as the matter can be heard, at 8:00 a.m. in Department F8 of the above-entitled court located at 17780 Arrow Blvd., Fontana, CA 92335, Defendant, ARDREDA JOHNSON, will and hereby does move this Court for an order striking the entire Complaint of Plaintiff, CROSBY CAPITAL

PROOF OF SERVICE

Crosby Capital USA, LLC v. Ardreda Johnson, et al
Case No. UDFS1806354

STATE OF CALIFORNIA)

COUNTY OF SAN BERNARDINO)

I am a resident of the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action. My business address is 12223 Highland Avenue, #106-355, Rancho Cucamonga, CA 91739.

On December 4, 2018, I served the foregoing documents described as **AMENDED FIRST PAGE OF NOTICE OF MOTION AND MOTION TO STRIKE COMPLAINT** on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

Aldridge Pite, LP
c/o William R. Jarrell
4375 Jutland Drive, Suite 200
San Diego, CA 92177-0934
(619) 590-1385 Fax


XX BY U.S. REGULAR MAIL: I deposited the sealed envelope(s) with the U.S. Postal Service in Rancho Cucamonga, California, with postage fully prepaid.

____ BY FACSIMILE MACHINE: I sent a copy via transmission to the telefax number(s) indicated above to the respective parties. The facsimile machine I used complied with California Rules of the Court, Rule 2003 and no error was reported by machine.

____ BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the above addressee(s).

XX (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 4, 2018, at Rancho Cucamonga, California.


Trina Patterson

PROOF OF SERVICE

1 WILLIAM R. JARRELL, SBN290271
2 ALDRIDGE | PITE, LLP
3 4375 JUTLAND DRIVE, SUITE 200
4 SAN DIEGO, CA 92177-0935
5 TELEPHONE: (858) 750-7600
6 FACSIMILE: (619) 590-1385
7 E-Mail: wjarrell@aldridgepite.com

8 Attorneys for Plaintiff CROSBY CAPITAL USA LLC

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
FONTANA DIVISION
DEC 20 2018
BY John Villalpando
John Villalpando, DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO – FONTANA COURTHOUSE

CROSBY CAPITAL USA LLC,

Plaintiff,

v.

ARDREDA JOHNSON and DOES I through
X, inclusive

Defendants.

Case No. UDFS1806354

PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO STRIKE
PLAINTIFF'S COMPLAINT

Date: December 31, 2018

Time: 8:00 am

Dept.: F8

Complaint filed 9/28/18

Plaintiff CROSBY CAPITAL USA LLC ("Plaintiff") respectfully submits the following
Opposition to Defendant ARDREDA JOHNSON's ("Defendant") Motion to Strike Complaint
("Motion to Strike"). For the reasons stated herein, the Court should deny Defendant's Motion to
Strike.

I.

STATEMENT OF FACTS

This is an unlawful detainer action concerning the real property and dwelling thereon
commonly known as, and located at, 7352 Stonehaven Pl., Rancho Cucamonga, CA 91730
(hereinafter, "Subject Property").

Plaintiff purchased the Subject Property located at 7352 ("Subject Property") at a trustee's
sale on July 3, 2018 and duly perfected title by the recording of the Trustee's Deed Upon Sale
("TDUS") in the Official Records of San Bernardino County on July 11, 2018 as Document Number

1 2018-0251675.¹

2 Following the trustee's sale, Defendant, the former trustor under the foreclosed upon deed of
3 trust, held over and remained in possession of the Subject Property without permission of Plaintiff
4 and under no right of claim.

5 Therefore, on September 7, 2018, Plaintiff caused Defendant to be properly served with a
6 Three-Day Written Notice to Vacate ("Notice to Vacate") in compliance with Code Civ. Proc. §
7 1162.² Defendant, however, failed to timely comply with the Notice to Vacate and continues in
8 unlawful possession of the Subject Property.

9 Accordingly, Plaintiff filed the immediate action for unlawful detainer on September 28,
10 2018 seeking rightful possession of the Subject Property.

11 Defendant responded to Plaintiff's Complaint by filing the present Motion to Strike.

12 **II.**

13 **ARGUMENT**

14 **A) Legal Standard**

15 Any party, within the time allowed to respond to a pleading may serve and file a notice of
16 motion to strike the whole or any party thereof. (Code Civ. Proc. § 435(b)(1).) Upon such motion,
17 the court may at any time in its discretion and upon terms it deems proper: (a) strike out any
18 irrelevant, false, or improper matter inserted in any pleading, and (b) strike out all or any part of any
19 pleading not drawn or filed in conformity with the laws of this state, or a court rule, or an order of
20 the court. (Code Civ. Proc. § 436.)

21 The proper objection where a party fails to verify a pleading is a motion to strike under Code
22 Civ. Proc. § 435, which provides for timely notice and for hearing and extension of time to answer.
23 (*See Perlman v. Municipal Court* (Cal. App. 2d Dist. 1979) 99 Cal.App.3d 568.) However, if an
24 evidentiary showing is necessary, then summary judgment or another motion is proper.
25 (*Mediterranean Exports, Inc. v. Superior Court* (1981) 119 CA3d 605, 616.)

26 /././

27

1 A true and correct copy of the TDUS is attached to Plaintiff's filed Complaint as Exhibit "1."

28 2 True and correct copies of the Notice to Vacate and proof of service thereof are attached to Plaintiff's filed
Complaint as Exhibits "2" and "3." respectively.

1 **B) Plaintiff's Complaint is Properly Verified**

2 In a civil action, the complaint must be verified and include the typed or printed name of the
3 person verifying. (*See* Code Civ. Proc. §§ 446(a) and 1166(a)(1).) A "verification" is an affidavit of
4 the truth of the matters stated. (*See Osborn v. Whittier* (Cal. App. 1951) 103 Cal.App.2d 609.)

5 Generally, where a pleading is verified, it shall be by the affidavit of a party. (*See* Code Civ.
6 Proc. § 446(a).) However, "where the parties are absent from the county where the attorney has his or
7 her office...or the facts are within the knowledge of his or her attorney," then the attorney may verify
8 the complaint on the party's behalf. (*Id.*)

9 An attorney verifying a pleading must state in his or her affidavit the reasons why the
10 verification is not made by one of the parties. (*Id.*) Further, when the verification is made by the
11 attorney for the reason that the parties are absent from the county where his or her office is located,
12 the attorney's affidavit shall state that he or she has read the pleading and that he or she is informed
13 and believes the matters therein to be true and on that ground alleges that the matters stated therein
14 are true. (*Id.*) However, in such cases, the pleadings shall not otherwise be considered as an affidavit
15 or declaration establishing the facts alleged therein. (*Id.*)

16 In this case, Plaintiff's Complaint was properly verified by its attorney of record herein,
17 William R. Jarrell, of Aldridge Pite, LLP. Mr. Jarrell's Verification asserts Plaintiff "is absent from
18 the County where" Mr. Jarrell maintains his office, and for that reason Mr. Jarrell verified the
19 Complaint. The Verification further declares Mr. Jarrell read the Summons, Complaint, and
20 supportive documents, and Mr. Jarrell attests to his belief that the matters stated in the Complaint are
21 true.

22 Indeed, Plaintiff is headquartered in the State of New York and it does not maintain an office
23 in San Diego County, where its attorneys' office is located, nor does Plaintiff have officers in San
24 Diego County to verify the Complaint. Consequently, Plaintiff's attorney, properly verified the
25 Complaint on behalf of Plaintiff in accordance with Code Civ. Proc. § 446.

26 Accordingly, Plaintiff's Complaint is properly verified.

27 /././

28 /././

C) Corporations Code § 2105 Does Not Preclude Plaintiff From Maintaining this Action.

Defendant argues that Plaintiff, as a foreign entity, is precluded from maintaining this unlawful detainer action because Plaintiff allegedly failed to obtain a certificate of qualification from the Secretary of State qualifying it to transact intrastate business in California pursuant to Corp. Code § 2105.

Corp. Code § 191, however, provides an exception for foreign corporations. Specifically, a foreign corporation is not considered to be transacting intrastate business when “[c]reating evidences of debt or mortgages, liens or security interests on real or personal property.” (Corp. Code § 191(c)(7).) Additionally, foreign lending institutions, such as Plaintiff, are not considered to be transacting or engaging in business in California by reason of “[t]he ownership of any loans and the enforcement of any loans by trustee’s sale...” (Corp. Code § 191(d)(3).)

Similarly, a foreign limited liability company transacting intrastate business in California is generally required to obtain a certificate of registration in order to maintain an action or proceeding in this State. (Corp. Code § 11708.07(a).) However, analogous exceptions exist in Corp. Code § 11708.03 which mandates a foreign limited liability company “[s]ecuring or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired” does not constitute transacting intrastate business. (Corp. Code § 11708.03(b)(8).) Section 11708.03, further mandates a foreign limited liability company does not transact intrastate business in California by “[c]reating or acquiring indebtedness, evidences of indebtedness, mortgages, liens, or security interests in real or personal property.” (Corp. Code § 11708.03(b)(7).)

Therefore, Plaintiff is exempt from the requirement that it obtain a certificate of qualification or certificate of registration under Corp. Code § 2105 and 11708.07(a), respectively. As such, there is no legal impediment precluding Plaintiff from maintaining this unlawful detainer action.

D) Plaintiff is a Real Party in Interest

Every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute. (Code Civ. Proc. § 367.)

The “real party in interest” is the party possessing the right sued upon by reason of the

1 substantive law. (*Ventura County Ry. Co. v. Hadley Auto Transport* (Cal. App. 2d 1995) 38 Cal.
 2 App. 4th 878; *see also Personnel Com. v. Barstow Unified School Dist.* (Cal. App. 4th Dist. 1996) 43
 3 Cal. App. 4th 871.) “Real party in interest” has been generally defined as any person or entity whose
 4 interest will be directly affected by the proceeding. (*Sonoma County Nuclear Free Zone ’86 v.*
 5 *Superior Court* (1987) 189 Cal. App. 3d 167, 173.) The “real party in interest” may be the person or
 6 entity in whose favor the acts complained of operate or anyone having a direct interest in the result.
 7 (*Ibid.*)

8 Despite Defendant’s contentions, the facts alleged in Plaintiff’s Complaint clearly evidence
 9 Plaintiff is a real party in interest in the instant unlawful detainer action. As alleged in the Complaint,
 10 Plaintiff purchased the Subject Property at a trustee’s sale on January 3, 2018 and duly perfected title
 11 by the recording of the TDUS. (Complaint at page 2, lines 5-8 (“2:5-8”).)

12 As further alleged in Plaintiff’s Complaint, Defendant, having failed to vacate the Subject
 13 Property following the trustee’s sale, was properly served with the Notice to Vacate on September 7,
 14 2018. (*Id.* at 2:9-14.) Defendant, however, failed to timely comply with the Notice to Vacate and
 15 unlawfully remains in possession of the Subject Property. (*Id.* at 2:15-18.) Upon expiration of said
 16 Notice, Plaintiff filed the immediate unlawful detainer action seeking possession of the Subject
 17 Property to which Plaintiff holds valid title and which Defendant continues to occupy under no claim
 18 of right.

19 Because Plaintiff is entitled to immediate possession of its own property which is currently
 20 unlawfully occupied by Defendant, Plaintiff is an uncontroverted real party in interest to this
 21 unlawful detainer action.

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III.


CONCLUSION

Plaintiff is entitled to a determination that the Complaint is properly verified and properly states a cause of action for unlawful detainer. For the reasons set forth herein, the Court should deny Defendant's Motion to Strike and order Defendant to file an answer within five (5) days.

Respectfully submitted:

ALDRIDGE | PITE, LLP

Dated: December 18, 2018



WILLIAM R. JARRELL, SBN290271
Attorneys for Plaintiff.

1 Crosby Capital USA LLC vs. Ardreda Johnson
2 County of San Bernardino - Fontana Courthouse
3 Case No(s). UDFS1806354

4 **DECLARATION OF SERVICE**

5 I, the undersigned, declare: I am, and was at the time of service of the papers herein
6 referred to, over the age of 18 years, and not a party to this action. My business address is 4375
7 Jutland Drive, Suite 200; P.O. Box 17934, San Diego, CA 92117-0934.

8 On December 18, 2018, I served the following document(s):

9 **Opposition to Motion to Strike**

10 on the parties in this action addressed as follows:

11 **Ardreda Johnson, and All Unknown Occupants**
12 **7352 Stonehaven Pl.**
13 **Rancho Cucamonga CA 91730**

14 **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am
15 readily familiar with the firm's practice of collection and processing correspondence for
16 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary
17 course of business. I am aware that on motion of party served, service is presumed
18 invalid if postal cancellation date or postage meter date is more than one day after date of
19 deposit for mailing in affidavit.

20 **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as
21 indicated above via certified mail, return receipt requested.

22 **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of
23 the above-described document(s). I verified transmission with a confirmation printed out
24 by the facsimile machine used. Thereafter, I placed a true copy in a sealed envelope
25 addressed and mailed as indicated above.

26 **BY FEDERAL EXPRESS (FEDEX):** I placed a true copy in a sealed FEDEX envelope
27 addressed as indicated above. I am familiar with the firm's practice of collection and
28 processing correspondence for FEDEX delivery and that the documents served are
deposited with FEDEX this date for overnight delivery.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19th day of December, 2018, at San Diego, California.


Crystal R. Cooper

12/19/2018

FedEx Ship Manager - Print Your Label(s)

ORIGINAL ID: MYFA (619) 342-8809 CRYSTAL COOPER ADDRESS: 4375 JUTLAND DR STE 200 SAN DIEGO, CA 92177 UNITED STATES US		SHIP DATE: 19DEC18 ACTWGT: 1.00 LB CAD: 100144711MNET4040 BILL SENDER
TO ARDREDA JOHNSON		
7352 STONEHAVEN PL.		
RANCHO CUCAMONGA CA 91730		
(909) 268-0506 REF: 1523-021A DEPT:		
		
		
REL # 3785346		
TRK# 0201 7740 1844 9336	THU - 20 DEC 10:30A PRIORITY OVERNIGHT	
		
WM ONTA CA-US 91730 ONT		

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2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

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Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

Fax No. (909) 320-5049

MC-005

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): ARDREDA JOHNSON 7352 STONEHAVEN PLACE RANCHO CUCAMONGA, CA 91730 TELEPHONE NO : (909) 268-0506 FAX NO (Optional): (888) 521-7542 E-MAIL ADDRESS (Optional): ardreda@aol.com ATTORNEY FOR (Name): DEFENDANT IN PRO PER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS : 17780 ARROW BLVD. MAILING ADDRESS : 17780 ARROW BLVD. CITY AND ZIP CODE : FONTANA, CA 92335 BRANCH NAME : FONTANA DISTRICT COURTHOUSE	
PLAINTIFF/PETITIONER: CROSBY CAPITAL USA LLC DEFENDANT/RESPONDENT: ARDREDA JOHNSON, ET AL	
FACSIMILE TRANSMISSION COVER SHEET	CASE NUMBER: UDFS1806354

TO THE COURT:

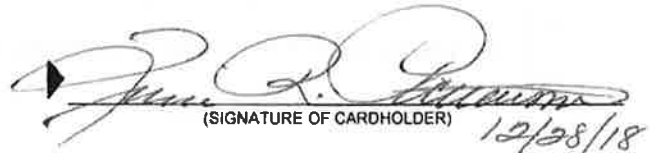
1. Please file the following transmitted documents in the order listed below:

<u>Document name</u>	<u>No. of pages</u>
NOTICE OF NON-APPEARANCE AT HEARING FOR DECEMBER 31, 2018 WITH PROOF OF SERVICE	3

2. ☐ Processing instructions consisting of: _____ pages are also transmitted.3. ☒ Fee required ☐ Filing fee ☒ Fax fee (Cal. Rules of Court, rule 10.815)a. ☐ Credit card payment I authorize the above fees and any amount imposed by the card issuer or draft purchaser to be charged to the following account:☒ VISA ☐ MASTERCARD Account No.: 4427427057849368 Expiration date: 01/21

TRINA R. PATTERSON

(TYPE OR PRINT NAME OF CARDHOLDER)



(SIGNATURE OF CARDHOLDER) 12/28/18
b. ☐ Attorney account (Cal. Rules of Court, rule 2.304). Please charge my account no.:

1 **ARDREDA JOHNSON**
2 7352 Stonehaven Place
3 Rancho Cucamonga, CA 91730
4 Phone: (909) 268-0506
5 Facsimile: (909) 899-3881
6 Email: ardreda@aol.com

7 DEENDANT IN PRO PER

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN BERNARDINO**
10 **FONTANA DISTRICT COURTHOUSE**

11 CROSBY CAPITAL USA LLC,

12 Plaintiff,

13 v.

14 ARDREDA JOHNSON; and DOES 1-10,
15 inclusive,

16 Defendants.
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Case No. UDFS1806354

**NOTICE OF NON-APPEARANCE AT
HEARING FOR DECEMBER 31, 2018**

Date: December 31, 2018

Time: 8:00 a.m.


Ctrm: F8

23 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE that Plaintiff ARDREDA JOHNSON, regrettably, due to
25 illness, hereby, gives notice that she will not appear at the hearing for her Motion to Strike
26 Complaint scheduled for December 31, 2018 at 8:00 a.m. in Department F8 and does submit the
27
28

1 matter based on the pleadings filed with the court without an appearance pursuant to *California*
2 *Rule of Court 3.1304(c)*.

3
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5 DATED: December 28, 2018

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8 _____
9 Ardreda Johnson
10 Plaintiff
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PROOF OF SERVICE

Crosby Capital USA, LLC v. Ardreda Johnson, et al
Case No. UDFS1806354

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

I am a resident of the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action. My business address is 12223 Highland Avenue, #106-355, Rancho Cucamonga, CA 91739.

On December 28, 2018, I served the foregoing documents described as **NOTICE OF NON-APPEARANCE AT HEARING FOR DECEMBER 31, 2018** on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

Aldridge Pite, LP
c/o William R. Jarrell
4375 Jutland Drive, Suite 200
San Diego, CA 92177-0934
(619) 590-1385 Fax

_____ BY U.S. REGULAR MAIL: I deposited the sealed envelope(s) with the U.S. Postal Service in Rancho Cucamonga, California, with postage fully prepaid.

XX BY FACSIMILE MACHINE: I sent a copy via transmission to the telefax number(s) indicated above to the respective parties. The facsimile machine I used complied with California Rules of the Court, Rule 2003 and no error was reported by machine.


_____ BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the
above addressee(s).

XX (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 28, 2018, at Rancho Cucamonga, California.


Trina Patterson

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMIE WRIGHT SBN264484 J. WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO: (866) 731-7505 FAX NO (Optional): (866) 731-7505 E-MAIL ADDRESS (Optional): jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO FONTANA DISTRICT JAN 08 2019 BY  ANA ROJO, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 17780 ARROW BLVD. MAILING ADDRESS: 17780 ARROW BLVD. CITY AND ZIP CODE: FONTANA, CA 92335 BRANCH NAME: FONTANA COURTHOUSE	CASE NUMBER: UDFS1806354
CASE NAME: Crosby Capital USA LLC v. Ardreda Johnson, et al	
SUBSTITUTION OF ATTORNEY—CIVIL (Without Court Order)	

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): **ARDREDA JOHNSON** makes the following substitution:

1. **Former legal representative** ☒ Party represented self ☐ Attorney (name):
2. **New legal representative** ☐ Party is representing self* ☒ Attorney
- a. Name: **JAMIE WRIGHT** b. State Bar No. (if applicable): **264484**
- c. Address (number, street, city, ZIP, and law firm name, if applicable):
8939 S. SEPULVEDA BLVD., SUITE 102
LOS ANGELES, CA 90045
- d. Telephone No. (include area code): **(866) 731-7505**
3. The party making this substitution is a ☐ plaintiff ☒ defendant ☐ petitioner ☐ respondent ☐ other (specify):

***NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • Guardian • Conservator • Trustee | <ul style="list-style-type: none"> • Personal Representative • Probate fiduciary • Corporation | <ul style="list-style-type: none"> • Guardian ad litem • Unincorporated association |
|--|---|---|

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

NOTICE TO PARTIES WITHOUT ATTORNEYS


A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.

Date: **JANUARY 7, 2019**

ARDREDA JOHNSON

(TYPE OR PRINT NAME)

▶ 


(SIGNATURE OF PARTY)

5. ☒ I consent to this substitution.

Date: **JANUARY 8, 2019**

ARDREDA JOHNSON

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF FORMER ATTORNEY)

6. ☒ I consent to this substitution.

Date: **JANUARY 7, 2019**

JAMIE WRIGHT

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

Page 1 of 2

CASE NAME: — Crosby Capital USA LLC v. Ardreda Johnson, et al	CASE NUMBER: UDFS1806354
--	-----------------------------

**PROOF OF SERVICE BY MAIL
Substitution of Attorney—Civil**

Instructions: After having all parties served by mail with the Substitution of Attorney—Civil, have the person who mailed the document complete this Proof of Service by Mail. An unsigned copy of the Proof of Service by Mail should be completed and served with the document. Give the Substitution of Attorney—Civil and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

- I am over the age of 18 and **not a party to this cause**. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (*specify*):
Business: 12223 Highland Ave., #106-355, Rancho Cucamonga, CA 91739
- I served the Substitution of Attorney—Civil by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

(1) Date of mailing: 01/08/2019 (2) Place of mailing (*city and state*): Rancho Cucamonga, CA 91739
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 9, 2019

Trina Patterson

(TYPE OR PRINT NAME)



(SIGNATURE)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

- Name of person served: Aldridge Pite, LLP c/o William R. Jarrell
 - Address (*number, street, city, and ZIP*):
4375 Jutland Drive, Suite 200
San Diego, CA 92177-0934
 - Name of person served:
 - Address (*number, street, city, and ZIP*):
 - Name of person served:
 - Address (*number, street, city, and ZIP*):
 - Name of person served:
 - Address (*number, street, city, and ZIP*):
 - Name of person served:
 - Address (*number, street, city, and ZIP*):

☐ List of names and addresses continued in attachment.

Fax No. 69097320-5049

MC-005

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMIE WRIGHT SBN264484 JAMIE WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO : (866) 731-7505 FAX NO (Optional): (866) 731-7505 E-MAIL ADDRESS (Optional): jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS : 17780 ARROW BLVD. MAILING ADDRESS : 17780 ARROW BLVD. CITY AND ZIP CODE : FONTANA, CA 92335 BRANCH NAME : FONTANA DISTRICT COURTHOUSE	
PLAINTIFF/PETITIONER: CROSBY CAPITAL USA LLC DEFENDANT/RESPONDENT: ARDREDA JOHNSON, ET AL	
FACSIMILE TRANSMISSION COVER SHEET	CASE NUMBER: UDFS1806354

TO THE COURT:

1. Please file the following transmitted documents in the order listed below:

Document name
 ANSWER TO COMPLAINT WITH PROOF OF SERVICE

No. of pages
 8

- 2.
- ☐
- Processing instructions consisting of: _____ pages are also transmitted.

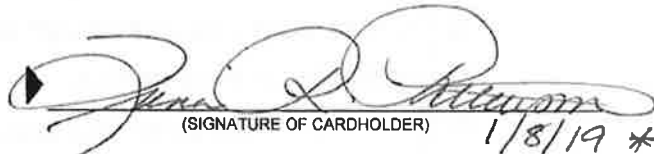
- 3.
- ☒
- Fee required
- ☐
- Filing fee
- ☒
- Fax fee (Cal. Rules of Court, rule 10.815)

- a.
- ☐
- Credit card payment I authorize the above fees and any amount imposed by the card issuer or draft purchaser to be charged to the following account:

☒ VISA ☐ MASTERCARD Account No.: 4427427057849368 Expiration date: 01/21

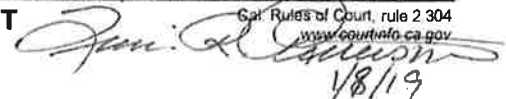
TRINA R. PATTERSON

(TYPE OR PRINT NAME OF CARDHOLDER)


 (SIGNATURE OF CARDHOLDER) 1/8/19 *

- b.
- ☐
- Attorney account (Cal. Rules of Court, rule 2.304). Please charge my account no.:

* Third Party Authorization - As witnessed by my signature above, I, Trina R. Patterson, authorize the necessary fee charged to my credit card for the above referenced document on behalf of J. Wright Law Group and Defendant Ardreda Johnson.


 1/8/19

J. WRIGHT LAW GROUP, P.C.
JAMIE WRIGHT SBN264484
8939 S. Sepulveda Blvd., Suite 102
Los Angeles, CA 90045
Telephone: (866) 731-7505
Facsimile: (866) 731-7505
Email: jwright@jamiewrightlawfirm.com

Attorney for Defendant Ardreda Johnson

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
FONTANA COURTHOUSE**

CROSBY CAPITAL USA LLC

Plaintiff,

VS.

ARDREDA JOHNSON; and DOES 1-10,
inclusive,

Defendants.

Case No. UDFS1806354

ANSWER TO COMPLAINT

Defendant, ARDREDA JOHNSON, in answer to the complaint on file, states as follows:

1. The answering Defendant adamantly disputes the allegations contained in Paragraph 1 of the Complaint. The answering Defendant contends Plaintiff, CROSBY CAPITAL USA LLC, hereinafter referred to as “CCU,” is not the owner of record of a parcel of real property and the dwelling located at 7352 Stonehaven Pl., Rancho Cucamonga, CA 91730, hereinafter referred to

1 as the "Property."

2 2. The answering Defendant adamantly disputes the allegations contained in Paragraph 4 of
3 the Complaint. The answering Defendant contends Plaintiff, CCU, did not purchase the Property
4 at a Trustee's Sale held on July 3, 2018. Defendant disputes the allegations that Plaintiff has
5 duly perfected title.
6

7 3. The answering Defendant adamantly disputes the allegations contained in Paragraph 5 of
8 the Complaint. Defendant contends that although a Trustee's Deed Upon Sale, hereinafter
9 referred to as "TDUS," has been recorded, it does not mean title has been perfected. A TDUS is
10 insufficient evident to prove title has been perfected.
11

12 4. The answering Defendant adamantly disputes the allegations contained in Paragraph 6 of
13 the Complaint. Defendant has not been legally served with a valid 3-Day Written Notice to
14 Vacate.
15

16 5. The answering Defendant adamantly disputes the allegations contained in Paragraph 7 of
17 the Complaint. Defendant was not served with a Notice to Vacate in compliance with California
18 Code of Civil Procedure §1162.

19 6. The answering Defendant adamantly disputes the allegations contained in Paragraph 8 of
20 the Complaint. Defendant has not failed to comply with a Notice to Vacate.
21

22 7. The answering Defendant adamantly disputes the allegations contained in Paragraph 9 of
23 the Complaint. Defendant contends she is not continuing in possession of the Property
24 unlawfully. Defendant contends Plaintiff is not the real party in interest. Plaintiff is a debt
25 collector pursuant to the California Fair Debt Collection Practices Act, hereinafter referred to as
26 the "Rosenthal Act," California *Civil Code* §1788.2(c) and is in violation of California *Civil*
27 *Code* §1788.13(j).
28

8. The answering Defendant adamantly disputes the allegations contained in Paragraph 10 of the Complaint. Defendant contends Plaintiff is not entitled to reasonable value for the use of occupancy of the property in sum of \$53.93 per day for damages from September 11, 2018 to present.

9. The answering Defendant adamantly disputes the allegations contained in Paragraph 11 of the Complaint. Defendant contends Plaintiff has not performed all the necessary actions, given all the required notices to bring this Unlawful Detainer action, and has not complied with the strict requirements of California *Civil Code* §2924, *et seq.* and thus is not entitled to immediate possession of the Property.

FIRST AFFIRMATIVE DEFENSE

The Complaint and each of its causes of action fail to state facts sufficient to constitute a cause or causes of action because:

- 1) lack of proper notice in the Notice of Default;
- 2) plaintiff has no authority to the property;
- 3) lack of proper verification of the complaint;
- 4) lack of standing;
- 5) misjoinder of parties;
- 6) lack of valid notice of trustee's sale;
- 7) lack of valid trustee's sale.

SECOND AFFIRMATIVE DEFENSE

NOVATION.

THIRD AFFIRMATIVE DEFENSE

WAIVER, ESTOPPEL AND CONSENT.

FORTH AFFIRMATIVE DEFENSE

UNCLEAN HANDS.

FIFTH AFFIRMATIVE DEFENSE

WILLFUL MISCONDUCT.

SIXTH AFFIRMATIVE DEFENSE

ONE WHO SEEKS EQUITY MUST DO EQUITY.

SEVENTH AFFIRMATIVE DEFENSE

MATERIAL ALTERATION OF CONTRACT.

EIGHTH AFFIRMATIVE DEFENSE

MISTAKE OF FACT.

NINTH AFFIRMATIVE DEFENSE

MISTAKE OF LAW.

TENTH AFFIRMATIVE DEFENSE

FIDUCIARY RELATIONS, UNCLEAN HANDS.

ELEVENTH AFFIRMATIVE DEFENSE

FRAUD.

TWELFTH AFFIRMATIVE DEFENSE

STATUTE OF FRAUDS.

THIRTEENTH AFFIRMATIVE DEFENSE

ILLUSORY PROMISE.

FOURTEENTH AFFIRMATIVE DEFENSE

UNCONSCIONABILITY.

FIFTEENTH AFFIRMATIVE DEFENSE

1 PROMISSORY ESTOPPEL.

2 **SIXTEENTH AFFIRMATIVE DEFENSE**

3 PERFORMANCE OF CONTRACT.

4 **SEVENTEENTH AFFIRMATIVE DEFENSE**

5 CONTRADICTORY, ILLUSORY, AMBIGUOUS AND UNINTELLIGIBLE CONTRACT
6 PROVISIONS AS TO THE ACCELERATION PROVISIONS ALLEGED TO BE IN THE
7 DEED OF TRUST AS COMPARED TO THE NOTE.

8 **EIGHTEENTH AFFIRMATIVE DEFENSE**

9 RESTITUTION

10 **NINETEENTH AFFIRMATIVE DEFENSE**

11 LACK OF STANDING/REAL PARTIES IN INTEREST.


12 The Complaint shows on its face that Plaintiff lacks standing. *Code of Civil Procedure*
13 §367 states: “Every action must be prosecuted in the name of the real party in interest. A real
14 party in interest is one having an actual and substantial interest in the subject matter of the action
15 and who would be benefited or injured by the judgment in the action. A real party in interest
16 ordinarily is defined as the person possessing the right sued upon by reason of the substantive
17 law. The real party in interest has ‘an actual and substantial interest in the subject matter of the
18 action,’ and stands to be ‘benefited or injured’ by a judgment in the action. Defendant contends
19 that Plaintiff is not the real party in interest because the foreclosure sale was not conducted by
20 parties that had the legal right or authority to do so. Plaintiff CCU is a debt collector pursuant to
21 California *Civil Code* §1788.2(c) and not a creditor and therefore was not the foreclosing
22 beneficiary. Plaintiff failed to file a Majority Action Affidavit prior to the filing of the Notice of
23 Default and/or the Substitution of Trustee in violation of California *Civil Code* §2941.9.

As evidenced by the Trustee's Deed Upon Sale, hereinafter referred to as TDUS, it states that Plaintiff was the foreclosing beneficiary. The TDUS clearly states "At the place fixed in the Notice of Trustee's Sale, Trustee sold property above described at public auction on 7/3/18 Grantee, being the highest bidder at such sale, became the purchased of said property and paid therefore to said Trustee the bid amount \$374,326.22 in lawful money of the United States, or by the satisfaction, *pro tanto*...". This is against the law. Only third-party purchasers may purchase the Property with lawful money and if the Property was purchased with lawful money, the documentary transfer tax should NOT be zero. The TDUS is void on its face. The language in the TDUS is ambiguous and a violation of *Civil Code § 2924h*. Only one of two types of buyers are allowed – the actual beneficiary who is the only company/entity that can do a credit bid; and anyone else who pays by "lawful money" and pays the transfer taxes.

There is no evidence or documentation that evidences Plaintiff was the foreclosing beneficiary with the power of sale under the Deed of Trust of said Premises. Pursuant to the Rosenthal Act, Plaintiff is a "debt collector", and violated *Civil Code §1788.17, subsection 15 U.S.C., 1692f(6)* by enforcing a security interest in which they had no legal right or authority to do. Based on the aforementioned, Defendant contends Plaintiff is not the real party in interest.

DATED: January 8, 2019

Respectfully submitted by:


 Jamie Wright
 Attorney for Defendant Ardreda Johnson

VERIFICATION

I, ARDREDA JOHNSON, am the Defendant in the above-entitled action. I have read the foregoing complaint and my answer and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Rancho Cucamonga, California on January 8, 2019.


Ardreda Johnson
Defendant

PROOF OF SERVICE

Crosby Capital USA LLC v. Ardreda Johnson, et al
Case No. UDFS1806354

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

I am a resident of the County of San Bernardino, State of California. I am over the age of 18 years and not a party to the within action. My business address is 12223 Highland Avenue, #106-355, Rancho Cucamonga, CA 91739.

On January 8, 2019, I served the foregoing documents described as **ANSWER TO COMPLAINT** on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

Aldridge Pite, LLP
c/o William R. Jarrell
4375 Jutland Drive, Suite 200
San Diego, CA 92177-0934
(619) 590-1385 Fax

XX BY U.S. REGULAR MAIL: I deposited the sealed envelope(s) with the U.S. Postal Service in Rancho Cucamonga, California, with postage fully prepaid.

____ BY FACSIMILE MACHINE: I sent a copy via transmission to the telefax number(s) indicated above to the respective parties. The facsimile machine I used complied with California Rules of the Court, Rule 2003 and no error was reported by machine.

_____ BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the above addressee(s).

XX (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 8, 2019, at Rancho Cucamonga, California.


Trina Patterson

UD-150

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMIE WRIGHT SBN264484 J. WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO.: (866) 731-7505 FAX No. (Optional): (866) 731-7505 E-MAIL ADDRESS (Optional): jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson	FOR COURT USE ONLY <div style="font-size: 2em; opacity: 0.5; position: absolute; top: 0; right: 0;">RECEIVED</div> <div style="font-size: 1.5em; margin-top: 10px;">JAN 10 2019</div> <div style="font-size: 0.8em; margin-top: 10px;">SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO FONTANA DISTRICT</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 17780 ARROW BLVD. MAILING ADDRESS: 17780 ARROW BLVD. CITY AND ZIP CODE: FONTANA, CA 92335 BRANCH NAME: FONTANA COURTHOUSE	
PLAINTIFF: CROSBY CAPITAL USA LLC DEFENDANT: ARDREDA JOHNSON, ET AL	
<div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> REQUEST <input checked="" type="checkbox"/> COUNTER-REQUEST </div> <p style="text-align: center;">TO SET CASE FOR TRIAL—UNLAWFUL DETAINER</p> <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant </div>	CASE NUMBER: UDFS1806354

1. ☐ **Plaintiff's request.** I represent to the court that all parties have been served with process and have appeared or have had a default or dismissal entered against them. I request that this case be set for trial.
2. **Trial preference.** The premises concerning this case are located at (street address, apartment number, city, zip code, and county):
 7352 Stonehaven Place, Rancho Cucamonga, CA 91730
 - a. ☒ To the best of my knowledge, the right to possession of the premises is still in issue. This case is entitled to legal preference under Code of Civil Procedure section 1179a.
 - b. ☐ To the best of my knowledge, the right to possession of the premises is no longer in issue. No defendant or other person is in possession of the premises.
3. **Jury or nonjury trial.** I request ☐ a jury trial ☒ a nonjury trial.
4. **Estimated length of trial.** I estimate that the trial will take (check one):
 - a. ☐ days (specify number):
 - b. ☒ hours (specify if estimated trial is less than one day): 1-2
5. **Trial date.** I am not available on the following dates (specify dates and reasons for unavailability):
 Not available for trial on 01/16/19. Requested new trial date 2/19/19. Attorney was retained on 01/07/19 and need more time to review the case and complete discovery. Plaintiff has not complied with discovery.

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)
6. (Complete in all cases.) An unlawful detainer assistant ☐ did not ☐ did for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.)

a. Assistant's name: b. Street address, city, and zip code:	c. Telephone no.: d. County of registration: e. Registration no.: f. Expires on (date):
--	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 01/08/2019

JAMIE WRIGHT

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- An unlawful detainer case must be set for trial on a date not later than **20 days after the first request** to set the case for trial is made (Code Civ. Proc., § 1170.5(a)).
- If a jury is requested, \$150 must be deposited with the court 5 days before trial (Code Civ. Proc., § 631).
- Court reporter and interpreter services vary. Check with the court for availability of services and fees charged.
- If you cannot pay the court fees and costs, you may apply for a fee waiver. Ask the court clerk for a fee waiver form.

Page 1 of 2

PLAINTIFF: CROSBY CAPITAL USA LLC	CASE NUMBER:
DEFENDANT: ARDREDA JOHNSON, ET AL	UDFS1806354

PROOF OF SERVICE BY MAIL

Instructions: After having the parties served by mail with the Request/Counter-Request to Set Case for Trial—Unlawful Detainer, (form UD-150), have the person who mailed the form UD-150 complete this Proof of Service by Mail. An **unsigned** copy of the Proof of Service by Mail should be completed and served with form UD-150. Give the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and **not a party to this case**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is (specify):
Business: 12223 Highland Ave., #106-355, Rancho Cucamonga, CA 91739
3. I served the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) by enclosing a copy in an envelope addressed to each person whose name and address are shown below AND
 - a. ☐ **depositing** the sealed envelope in the United States mail on the date and at the place shown in item 3c with the postage fully prepaid.
 - b. ☒ **placing** the envelope for collection and mailing on the date and at the place shown in item 3c following ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - c. (1) Date mailed: January 9, 2019
(2) Place mailed (city and state): Rancho Cucamonga, CA 91739

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Date: January 9, 2019

Trina Patterson

(TYPE OR PRINT NAME)


(SIGNATURE OF PERSON WHO MAILED FORM UD-150)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Name

Address (number, street, city, and zip code)

4.	Aldridge Pite, LLP c/o William R. Jarrell	4375 Jutland Drive, Suite 200 San Diego, CA 92177-0934
5.		
6.		
7.		
8.		
9.		

☐ List of names and addresses continued on a separate attachment or form MC-025, titled Attachment to Proof of Service by Mail.

1 WILLIAM R. JARRELL, SBN 290271
2 ALDRIDGE PITE, LLP
3 4375 Jutland Dr., Ste. 200
4 P.O. Box 19734
5 San Diego, CA 92177-9734
6 Telephone: (858) 750-7600
7 Facsimile: (858) 412-2719

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
FONTANA DISTRICT

JAN 10 2019

BY Christianese Kaiser
CHRISTIANESE KAISER, DEPUTY

8 Attorney's for Plaintiff CROSBY CAPITAL USA LLC

9
10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF SAN BERNARDINO - FONTANA COURTHOUSE**

12 CROSBY CAPITAL USA LLC,
13 Plaintiff(s),

Case No.: UDFS1806354

NOTICE OF RULING

14 vs.

15 ARDREDA JOHNSON and DOES I through
16 X, inclusive,

17 Defendant(s).

18 TO ALL INTERESTED PARTIES, Defendant(s) Motion to Strike in the above-entitled
19 matter came on regularly for hearing. Plaintiff appeared by and through attorney, William
20 Garrett, specially appearing on behalf of Aldridge Pite, LLP.

21 The Court having heard the evidence and oral argument and good cause appearing
22 therefor;

23 THE COURT ORDERED AS FOLLOWS:

24 Defendant(s) Motion to Strike denied. Defendant has five court days to answer. Trial set
25 for January 16, 2019 at 8:00 AM in Dept. F-8.

26 Dated: 1/3/19

ALDRIDGE PITE, LLP

27 William R. Jarrell
28 WILLIAM R. JARRELL, SBN 290271
Attorneys for Crosby Capital USA LLC

RECEIVED
JAN 10 2019
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
FONTANA DISTRICT

1 Crosby Capital USA LLC vs. Ardreda Johnson
2 County of San Bernardino - Fontana Courthouse
3 Case No(s). UDFS1806354

4 **DECLARATION OF SERVICE**

5 I, the undersigned, declare: I am, and was at the time of service of the papers herein
6 referred to, over the age of 18 years, and not a party to this action. My business address is 4375
7 Jutland Drive, Suite 200; P.O. Box 17934, San Diego, CA 92117-0934.

8 On January 8, 2018, I served the following document(s):

9 **Notice of Ruling**

10 on the parties in this action addressed as follows:

11 **Ardreda Johnson**
12 **7352 Stonehaven Pl.**
13 **Rancho Cucamonga CA 91730**

14 **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am
15 readily familiar with the firm's practice of collection and processing correspondence for
16 mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary
17 course of business. I am aware that on motion of party served, service is presumed
18 invalid if postal cancellation date or postage meter date is more than one day after date of
19 deposit for mailing in affidavit.

20 **BY CERTIFIED MAIL:** I placed a true copy in a sealed envelope addressed as
21 indicated above via certified mail, return receipt requested.


22 **BY FACSIMILE:** I personally sent to the addressee's facsimile number a true copy of
23 the above-described document(s). I verified transmission with a confirmation printed out
24 by the facsimile machine used. Thereafter, I placed a true copy in a sealed envelope
25 addressed and mailed as indicated above.

26 X **BY FEDERAL EXPRESS (FEDEX):** I placed a true copy in a sealed FEDEX envelope
27 addressed as indicated above. I am familiar with the firm's practice of collection and
28 processing correspondence for FEDEX delivery and that the documents served are
deposited with FEDEX this date for overnight delivery.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8th day of January, 2019, at San Diego, California.


Crystal R. Cooper

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMIE WRIGHT J. WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO. (866) 731-7505 FAX No. (Optional) (866) 731-7505 E-MAIL ADDRESS (Optional): jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson		FOR COURT USE ONLY <div style="text-align: center; font-weight: bold; font-size: 1.2em;">FILED</div> SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO FONTANA DISTRICT JAN 11 2019 BY  MARC CORDOVA, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 17780 ARROW BLVD. MAILING ADDRESS: 17780 ARROW BLVD. CITY AND ZIP CODE: FONTANA, CA 92335 BRANCH NAME: FONTANA COURTHOUSE		CASE NUMBER: <div style="font-size: 1.2em; font-weight: bold;">UDFS1806354</div>
PLAINTIFF: CROSBY CAPITAL USA LLC DEFENDANT: ARDREDA JOHNSON, ET AL		
<div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> REQUEST <input checked="" type="checkbox"/> COUNTER-REQUEST </div> <div style="text-align: center; font-weight: bold; margin-top: 5px;">TO SET CASE FOR TRIAL—UNLAWFUL DETAINER</div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant </div>		

1. ☐ **Plaintiff's request.** I represent to the court that all parties have been served with process and have appeared or have had a default or dismissal entered against them. I request that this case be set for trial.
2. **Trial preference.** The premises concerning this case are located at (street address, apartment number, city, zip code, and county):
 7352 STONEHAVEN PLACE, RANCHO CUCAMONGA, CA 91730
 - a. ☒ To the best of my knowledge, the right to possession of the premises is still in issue. This case is entitled to legal preference under Code of Civil Procedure section 1179a.
 - b. ☐ To the best of my knowledge, the right to possession of the premises is no longer in issue. No defendant or other person is in possession of the premises.
3. **Jury or nonjury trial.** I request ☒ a jury trial ☐ a nonjury trial.
4. **Estimated length of trial.** I estimate that the trial will take (check one):
 - a. ☐ days (specify number):
 - b. ☒ hours (specify if estimated trial is less than one day): 1-2
5. **Trial date.** I am not available on the following dates (specify dates and reasons for unavailability):
 Unavailable 1/16/19. Requested date of 2/19/19. Attorney was just retained on 1/7/19 and needs additional time to review case and complete deposition and discovery. Plaintiff is refusing to comply with discovery.

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)
6. (Complete in all cases.) An unlawful detainer assistant ☐ did not ☐ did for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.)

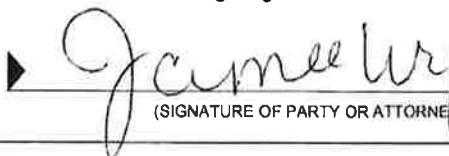
a. Assistant's name: b. Street address, city, and zip code:	c. Telephone no.: d. County of registration: e. Registration no.: f. Expires on (date):
--	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 10, 2019

JAMIE WRIGHT

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- An unlawful detainer case must be set for trial on a date not later than **20 days after the first request** to set the case for trial is made (Code Civ. Proc., § 1170.5(a)).
- If a jury is requested, \$150 must be deposited with the court 5 days before trial (Code Civ. Proc., § 631).
- Court reporter and interpreter services vary. Check with the court for availability of services and fees charged.
- If you cannot pay the court fees and costs, you may apply for a fee waiver. Ask the court clerk for a fee waiver form.

PLAINTIFF: CROSBY CAPITAL USA LLC

CASE NUMBER:

UDFS1806354

DEFENDANT: ARDREDA JOHNSON, ET AL

PROOF OF SERVICE BY MAIL

Instructions: After having the parties served by mail with the Request/Counter-Request to Set Case for Trial—Unlawful Detainer, (form UD-150), have the person who mailed the form UD-150 complete this Proof of Service by Mail. An **unsigned** copy of the Proof of Service by Mail should be completed and served with form UD-150. Give the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and **not a party to this case**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is (specify):
Business: 12223 Highland Ave. #106-355, Rancho Cucamonga, CA 91739
3. I served the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) by enclosing a copy in an envelope addressed to each person whose name and address are shown below AND

- a. ☒ **depositing** the sealed envelope in the United States mail on the date and at the place shown in item 3c with the postage fully prepaid.
- b. ☐ **placing** the envelope for collection and mailing on the date and at the place shown in item 3c following ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- c. (1) Date mailed: January 11, 2019
(2) Place mailed (city and state): Rancho Cucamonga, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Date: January 11, 2019

Trina Patterson

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON WHO MAILED FORM UD-150)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILEDNameAddress (number, street, city, and zip code)

4.	Aldridge Pite, LLP c/o William R. Jarrell	4375 Jutland Drive, Suite 200 San Diego, CA 92177
5.		
6.		
7.		
8.		
9.		

☐ List of names and addresses continued on a separate attachment or form MC-025, titled Attachment to Proof of Service by Mail.

JAMIE WRIGHT SBN264484
J. WRIGHT LAW GROUP, P.C.
8939 S. SEPULVEDA BLVD., SUITE 102
LOS ANGELES, CA 90045
Telephone: (866) 731-7505
Facsimile: (866) 731-7505
Email: jwright@jamiewrightlawfirm.com

Attorney for Defendant Ardreda Johnson

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 23 2019

BY 
NORM PINGREY, DEPUTY

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
SAN BERNARDINO JUSTICE CENTER**

CROSBY CAPITAL USA LLC,

Plaintiff,

vs.

ARDREDA JOHNSON; and DOES 1-10,
inclusive,

Defendants.

Case No. UDFS1806354

**EX PARTE APPLICATION AND
NOTICE OF MOTION AND MOTION
TO RE-OPEN DISCOVERY;
DECLARATION OF JAMIE WRIGHT**

Date: January 23, 2019

Time: 8:30 a.m.

Dept: S16

TO PLAINTIFF THE PARTIES AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Wednesday, January 23, 2019, or as soon after that as the matter can be heard, at 8:30 a.m. in Department S16 of the above-entitled court located at 247 W. Third Street, San Bernardino, CA 92415, Defendant, ARDREDA JOHNSON, will

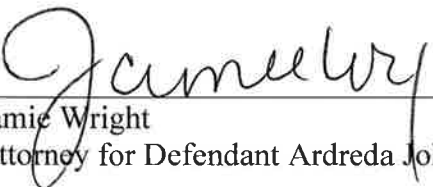
1 appear and move the Court for an order to reopen discovery as stated by the Court on January 16,
2 2019.

3 This motion is brought pursuant to California *Code of Civil Procedure* §2024.050(a) on
4 the grounds that (1) the Court continued trial to January 28, 2019 due to Defendant's request for
5 a jury trial; (2) an order reopening discovery is necessary due to the fact that Plaintiff has refused
6 to complete Plaintiff's discovery requests and deposition; (3) Counsel for Defendant, Jamie
7 Wright, was just retained on January 7, 2019 and needs additional time to conduct discovery to
8 assist her in trial preparation in order to defend against the complaint that has been filed against
9 Defendant.
10

11 The motion shall be based upon this notice of motion and motion, the attached
12 memorandum of points and authorities, the attached declaration of Jamie Wright, and Exhibits
13 attached thereto, the records and files of this action, and on such other further oral and/or
14 documentary evidence as may be presented at the hearing on this motion.
15
16
17

18 DATED: January 22, 2019

19 **J. WRIGHT LAW GROUP, P.C.**

20 
21 _____
22 Jamie Wright
23 Attorney for Defendant Ardreda Johnson
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS**

4 This case arises out of a foreclosure action. Defendant suffered a foreclosure on her
5 Property on July 3, 2018. Plaintiff, CROSBY CAPITAL USA LLC, hereinafter referred to as
6 “CCU”, purportedly the “foreclosing beneficiary” purchased Defendant’s Property at the
7 foreclosure sale. After the sale, Plaintiff filed this Unlawful Detainer against Defendant on
8 September 28, 2018.
9

10 On January 16, 2019, the Court continued the trial date to January 28, 2019 in Dept. S17 at
11 10:30 at the San Bernardino Justice Center located at 247 W. Third Street, San Bernardino, CA
12 92415.
13

14 Defendant contends that the Court should reopen discovery pursuant to the provisions of
15 California *Code of Civil Procedure* §2024.050(a) on the grounds that:
16

17 (1) the Court continued the jury trial date to January 28, 2019 at 10:30 a.m. in Dept. S17 at
18 the San Bernardino Justice Center.

19 (2) an order reopening discovery is necessary because Defendant requested discovery in a
20 timely manner and Plaintiff has refused to comply with Defendant’s discovery requests;
21

22 (3) Counsel for Defendant was retained on January 7, 2019 and needs additional time to
23 review the case, complete discovery, take the deposition of opposing attorney William R. Jarrell
24 to assist her in trial preparation in order to defend the action filed against Defendant.

25 Defendant has complied with the meet and confer requirements in that on January 10,
26 2019, a meet and confer letter was sent to counsel for Plaintiff, William R. Jarrell. Mr. Jarrell
27 responded back to Defendant’s meet and confer letter by stating her discovery requests was
28

untimely and that he was under no obligation to comply with discovery. Attached as **Exhibit “A”** and incorporated herein by reference is a true and correct copy of Plaintiff’s January 7, 2019 letter to Defendant. Attached as **Exhibit “B”** and incorporated herein by reference is a true and correct letter of Defendant’s Meet and Confer Letter to Plaintiff dated January 10, 2019. Attached as **Exhibit “C”** and incorporated herein by reference is a true and correct copy of the Substitution of Attorney filed on January 8, 2019. Attached as **Exhibit “D”** and incorporated herein by reference is a true and correct copy of Defendant’s Counter-Request for a Jury Trial filed on January 11, 2019.

II.

ARGUMENT

A. THE COURT HAS THE STATUTORY AUTHORITY TO REOPEN DISCOVERY AND THE MOVING PARTY HAS COMPLIED WITH THE MEET AND CONFER REQUIREMENTS YET PLAINTIFF HAS REFUSED TO STIPULATE TO REOPENING DISCOVERY

Defendant contends that this Court should reopen discovery so that she can conduct and complete discovery to assist her in trial preparation in order to defend against the Complaint filed against Defendant.

Code of Civil Procedure §2024.050 states in pertinent part that,

(a) “On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen discovery after a new trial date has been set. This motion shall be accompanied by a meet and confer declaration under *Section 2016.040*.” Declaration of Jamie Wright is attached hereto.

(b) In exercising its discretion to grant or deny this motion, the court shall take into

1 consideration any matter relevant to the leave requested, including, but not limited to, the
 2 following:

3 (1) The necessity and the reasons for the discovery.

4 (2) The diligence or lack of diligence of the party seeking the discovery or the hearing of
 5 a discovery motion, and the reasons that the discovery was not completed or that the discovery
 6 motion was not heard earlier.

7 (3) Any likelihood that permitting the discovery or hearing the discovery motion will
 8 prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar,
 9 or result in prejudice to any other party.

10 (4) The length of time that has elapsed between any date previously set, and the date
 11 presently set, for the trial of the action.

12 (c) The court shall impose a monetary sanction under Chapter 7 (commencing with
 13 *Section 2023.010*) against any party, person, or attorney who unsuccessfully makes or opposes a
 14 motion to extend or to reopen discovery, unless it finds that the one subject to the sanction acted
 15 with substantial justification or that other circumstances make the imposition of the sanction
 16 unjust.”

17 Defendant has complied with the meet and confer requirement in that on January 10,
 18 2018, Counsel Jamie Wright sent a meet and confer letter to Counsel for Plaintiff, William R.
 19 Jarrell, requesting that Plaintiff stipulate to continuing trial and to make arrangements for his
 20 deposition. Counsel William R. Jarrell refused to stipulate to a continuation and a deposition.
 21 See the declaration of Jamie Wright attached thereto, concurrently filed and served herewith and
 22 incorporated herein by reference.

23 An order continuing or postponing a trial date does not operate to reopen discovery. *See*

1 *Code of Civil Procedure* §2024.020(b); see also *Pelton-Shepherd Industries, Inc. v. Delta*
 2 *Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1575, fn. 10. A trial court may in its
 3 discretion grant a motion to reopen discovery after a new trial date has been set. See *Pelton-*
 4 *Shepherd Industries, Inc. v. Delta Packaging Products, Inc.*, supra, 165 Cal.App.4th at p. 1575,
 5 fn. 10.

7 In the case at bar, on January 3, 2019 mailed to Defendant her Requests for Discovery. At
 8 that time, Defendant was unrepresented. Plaintiff received Defendant's Discovery Requests on
 9 Monday, January 7, 2019. At that time, Plaintiff sent Defendant a response to her requests for
 10 discovery as untimely. Defendant received Plaintiff's letter by Fed-Ex on Tuesday, January 8,
 11 2019. Included with Plaintiff's letter was the Notice of Ruling from the December 31, 2018
 12 hearing on Defendant's Motion to Strike. The Notice of Ruling informed Defendant that her
 13 Motion to Strike was denied, she had five (5) days to file an answer and trial was set for January
 14 16, 2019.

17 Pursuant to the California Judges Benchguide 31 (2015) §31.69, either party *must* use
 18 Judicial Council Form UD-150 to request that the case be set for trial. Plaintiff failed to file a
 19 Request To Set Case for Trial. Furthermore, a Request To Set Case for Trial can only be filed
 20 after the Defendant has appeared and answered, §31.70. Defendant's Answer was not filed until
 21 January 8, 2019.

23 Pursuant to the California Judges Benchguide 31 §31.54, The Civil Discovery Act (*Code*
 24 *of Civil Procedure* §§2016.010-2036.050) clearly contemplates that there may be discovery in
 25 unlawful detainer actions. All discovery must be completed 5 days before trial. Oral depositions
 26 in an unlawful detainer must be scheduled for a date at least 5 days after service of the deposition
 27 notice but not later than 5 days before trial. California *Code of Civil Procedure* §2025.270(b).

1 Counsel William R. Jarrell refused to set up a deposition when Jamie Wright contacted him on
 2 January 10, 2019. Plaintiff had adequate time to schedule the deposition prior to the original trial
 3 date and yet refused to comply with discovery, the deposition, and to stipulate to continue trial.
 4 Based on the aforementioned, Defendant's Motion to Reopen Discovery should be granted.
 5

6 **B. THE MOVING PARTY HAS SHOWN GOOD CAUSE FOR REOPENING**
 7 **DISCOVERY TO ASSIST ATTORNEY IN PREPARATION TO ASSIST IN**
 8 **DEFENDANT'S DEFENSE AGAINST PLAINTIFF'S COMPLAINT**

9 Defendant has shown good cause for reopening discovery so that she can conduct
 10 discovery to assist Counsel Jamie Wright in trial preparation in order to defend against the
 11 Complaint filed against Defendant.

12 The law is settled in California that the one of the principle purposes of discovery is to
 13 eliminate surprise at trial by allowing disclosure of the basic issues and facts to the greatest
 14 extent.
 15

16 Reopening discovery is particularly important as Counsel for Defendant was just retained
 17 on January 7, 2019 and Plaintiff failed to file the mandatory form UD-150 prior to setting the
 18 case for trial and prior to Defendant filing an Answer to the Complaint.

19 One of the principal purposes of civil discovery is to do away with the sporting theory of
 20 litigation, namely, surprise at trial and such purpose is accomplished by giving greater assistance
 21 to parties in ascertaining the truth. *See Thoren v. Johnston and Washer*, (1972) 29 Cal.App.3d
 22 270, 274 (citing *Chronicle Pub. Co. v. Superior Court* (1960) 54 Cal.2d 548, 561.)
 23

24 One of the principle purposes of discovery is to eliminate surprise at trial, replacing the
 25 "game" element of litigation with the notion that a trial is "a fair contest with the basic issues and
 26 facts disclosed to the fullest possible extent." *Greyhound Corp. v. Superior Court* (1961) 56
 27 Cal.2d 355, 376.
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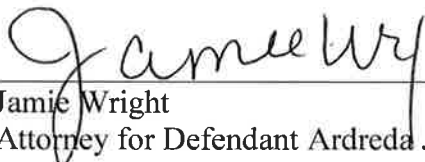
1 California law favors trying cases on their merits. *Salas v. Sears, Roebuck & Co.* (1986)
2 42 Cal.3d 342, 347.

3
4 **CONCLUSION**

5 Based on the foregoing, the Court is urged to issue an order reopening discovery.

6
7 DATED: January 22, 2019

8 **J. WRIGHT LAW GROUP, P.C.**

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10 
11 _____
12 Jamie Wright
13 Attorney for Defendant Ardreda Johnson
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DECLARATION OF JAMIE WRIGHT

I, Jamie Wright, declare as follows:

1. I am an attorney at law duly admitted to practice before all courts of the State of California and the attorney of record herein for Defendant Ardreda Johnson in this action.
2. I was retained as Defendant's full attorney on January 7, 2019. A Substitution of Attorney was filed on January 8, 2019.
3. On January 9, 2019, Defendant Ardreda Johnson informed me that she received by Fed-Ex a letter from Counsel for Plaintiff, William R. Jarrell, informing her that her requests for discovery was untimely and that he was under no obligation to respond to them.
4. On January 10, 2019, I contacted William R. Jarrell by email and fax in an attempt to meet and confer about the discovery. In my meet and confer letter to Mr. Jarrell, I stressed the need to conduct discovery and his deposition. I requested he contact me to discuss a stipulation for continuing trial and a date to schedule his deposition.
5. Mr. Jarrell refused to comply with discovery, refused to stipulate to continue trial, and refused to schedule a date for his deposition.
6. On January 11, 2019, we filed a Counter-Request to Set Case for Trial requesting a continuance and a Jury Trial.
7. On January 16, 2019, an appearance was held at the Fontana Courthouse. The Court denied the continuance of trial and stated that we needed to file a Motion to Reopen Discovery. Mr. Jarrell was notified that we would be filing an Ex Parte Motion to Reopen Discovery.
8. In the time I have been retained as Defendant's attorney, I have made more than one attempt to meet and confer with Mr. Jarrell about discovery and his deposition. He has repeatedly stated that he is under no obligation to respond to the requests for discovery because

1 they were untimely.

2
3 I declare under penalty of perjury under the laws of the United States of America and the
4 State of California that the foregoing is true and correct and that this Declaration was executed
5 on January 22, 2019.


6
7 
8 Jamie Wright

**SUPPORTING DECLARATION OF TRINA PATTERSON RE ADVANCE
NOTIFICATION**

I, TRINA PATTERSON declares as follows:

1. I am not a party to the action.
2. On January 22, 2019, at approximately 9:43 a.m., I called the law firm of Aldridge Pite, LLP at (858) 750-7600 to give Ex Parte Notice of the hearing for Wednesday, January 23, 2019. After holding for more than 10 minutes, I was directed to a voicemail.
3. I left a voicemail message informing Aldridge Pite that I was giving Ex Parte Notice for an Ex Parte Hearing for Wednesday, January 23, 2019 at 8:30 a.m. in Dept. S16 at the San Bernardino Justice Center located at 247 W. Third Street, San Bernardino, CA 92415.
4. I informed them the Ex Parte is for a Notice of Motion and Motion to Reopen Discovery. This was in reference to the Crosby Capital USA LLC v. Ardreda Johnson, Case No. UDFS1806354. They could contact Attorney Jamie Wright at (866) 731-7505 to inform her if they planned to oppose the motion.
5. I followed up with a faxed Ex Parte Notice. Aldridge Pite LLC received the faxed notice at 9:59 a.m. and another at 10:01 a.m. on January 22, 2019. The Notice was faxed to (619) 592-1385.
6. A new Ex Parte Notice was faxed to Aldridge Pite at 3:30 informing them the Ex Parte hearing was moved to Thursday, January 24, 2019 in Dept. S16 from Wednesday.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 22, 2019, Rancho Cucamonga, California.


Trina Patterson

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EXHIBIT “A”

ALDRIDGE PITE
LLP4375 Mutual Drive
Suite 200
San Diego, CA 92117
P 858 750 7600
F 858 755 2507
www.aldridgepite.com

January 7, 2019

Ardreda Johnson
7352 Stonehaven Pl.
Rancho Cucamonga, CA 91370Sent via FedEx Overnight

Re: Untimely Discovery Requests

Case: Crosby Capital USA LLC v. Ardreda Johnson, et al.

Case No.: UDFS1806354

AP Matter: 1523-021A

Ms. Johnson:

I am in receipt of the Requests for Admission, Request for Production of Documents, Form Interrogatories, and Deposition Subpoenas recently served on my office. This letter is to inform that my client, Crosby Capital USA LLC ("Crosby") hereby objects to these requests as they are untimely, and therefore Crosby is under no obligation to respond.

Code of Civil Procedure § 2024.040(b)(1) provides discovery in unlawful detainer proceedings "shall be completed on or before the fifth day before the date set for trial." In this case, at the motion to strike hearing on December 31, 2018, the Court set trial for January 16, 2019 at 8:00 am in Department F8 of the Superior Court of California, County of San Bernardino, Fontana District Courthouse. (See enclosures.) Accordingly, all discovery in this case must be completed by January 11, 2019. Your discovery requests were served by regular mail on January 3, 2019. Plaintiff's responses would therefore be due by January 14, 2019, two (2) days before the trial date. (See Code Civ. Proc. §§ 1013(a), 2016.060, 2030.260(b), 2031.260(b), and 2033.250(b).) As such, your requests are untimely.

Additionally, Crosby objects to, and will not comply with, the two (2) Deposition Subpoenas served on my office as both Subpoenas were propounded in the name of attorney Jamie Wright who has not entered an appearance in this case, and is therefore not authorized to issue subpoenas in this case. Further, as detailed above, the Subpoenas are untimely as discovery must be completed five (5) days before trial, and both Subpoenas notice an appearance date of January 24, 2019, which is after the trial date. (Code Civ. Proc. § 2024.040(b)(1).)

For the reasons stated herein, Crosby is not obligated to respond to your discovery requests and will not provide responses to the discovery propounded in this case.

Respectfully,


William R. Jarrell

ALDRIDGE PITE, LLP

Enclosures (2)

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EXHIBIT “B”



1/10/2019

From: Jamie Wright

Company Name: J.Wright Law Group

To: William Jarrell

Phone: 888-750-7600

Fax: 888-755-2507

Company Name: ALDRIDGE PITE, LLP

Comments:

Attached please find a Meet and Confer letter regarding the above reference file. A hard copy has been placed in the mail.

7 Total Pages

☐ Urgent ☒ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

January 10, 2019

VIA FACSIMILE AND REGULAR MAIL

Aldridge Pite, LLP
c/o William R. Jarrell
4375 Jutland Drive, Suite 200
San Diego, CA 92177

RE: Responses to Ardreda Johnson's Discovery Requests and Deposition

CROSBY CAPITAL USA LLC v. ARDREDA JOHNSON, ET AL

CASE NO.: UDFS1806354

Dear Counsel:

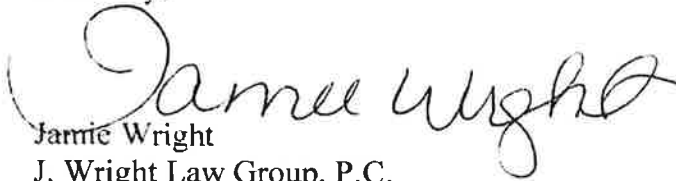
I have been retained to represent Defendant Ardreda Johnson in the above referenced matter. Attached please see the Substitution of Attorney. This letter is in response to your letter to her dated January 7, 2019 regarding her Requests for Admission, Request for Production of Documents, Form Interrogatories, and Deposition Subpoenas. Your letter stated that you are under no obligation to respond to her requests because they are untimely. I strongly disagree.

Defendant has a constitutional right to conduct discovery pursuant to California *Code of Civil Procedure* §§2016.010-2036.050. Understandably, in an unlawful detainer action the time limits within which discovery must be completed are very narrow because of the summary nature of the proceedings. However, a defendant may serve a plaintiff with Requests for Admission at any time pursuant to *Code of Civil Procedure* §2033.020(a). The responding party has 5 days from the date of service of the request to respond pursuant to *Code of Civil Procedure* §2033.250(b). In regards to a Requests for Interrogatories, a defendant may serve a plaintiff with Request for Interrogatories at any time pursuant to *Code of Civil Procedure* §2030.020(a). The responding party has 5 days from the date of service of the request to respond pursuant to *Code of Civil Procedure* §2030.260(b). In regards to production of documents, a defendant may serve a plaintiff with Requests for Production of Documents at any time pursuant to *Code of Civil Procedure* §2031.020(a). The responding party has 5 days from the date of service of the request to respond pursuant to *Code of Civil Procedure* §2031.260(b). In regards to oral depositions, an oral deposition in an unlawful detainer action must be scheduled for a date at least 5 days after service of the deposition notice but not later than 5 days before trial pursuant to *Code of Civil Procedure* §2025.270(b). However, on motion or ex parte application, for good cause shown, the court may shorten or extend the time for scheduling a deposition pursuant to *Code of Civil Procedure* §2030.260(b). You received Defendant's discovery requests on January 7, 2019, although Defendant was in Pro Per when the requests were made, you still have an obligation to respond to her discovery request pursuant to statute on or before January 14, 2019. Defendant's discovery requests are not untimely.

Typically, discovery must be completed five (5) days before trial, however, since you failed to discuss possible trial dates with Defendant and failed to file a Request To Set Case For Trial – Unlawful Detainer (form UD-150) as required, there is good cause to have the trial date vacated. A Request for Counter-Trial was filed today. A copy has been attached for your review. Additionally, the setting of the trial date was premature. Not only is a Request To Set Case For Trial – Unlawful Detainer a mandatory requirement, Defendant must file an Answer prior to the form being filed. Based on the aforementioned reasons, there is just and good cause for a continuation of the trial.

If you wish to stipulate to a continuation of trial and would like to discuss available dates for the deposition, please do not hesitate to contact me. I anticipate that we can resolve these issues without court intervention. If not, you are being informed that we plan to go in Ex Parte on Tuesday, January 15, 2019 to request a continuation.

Sincerely,

A handwritten signature in cursive script that reads "Jamie Wright". The signature is written in dark ink and is positioned above the printed name and title.

Jamie Wright
J. Wright Law Group, P.C.
Attorney for Ardreda Johnson

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EXHIBIT “C”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMIE WRIGHT SBN264484 J. WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO. (866) 731-7505 FAX NO. (Optional): (866) 731-7505 E-MAIL ADDRESS (Optional): jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson		FOR COURT USE ONLY FILED JAN 08 2019
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS 17780 ARROW BLVD. MAILING ADDRESS 17780 ARROW BLVD. CITY AND ZIP CODE FONTANA, CA 92335 BRANCH NAME FONTANA COURTHOUSE		
CASE NAME: Crosby Capital USA LLC v. Ardreda Johnson, et al		
SUBSTITUTION OF ATTORNEY—CIVIL (Without Court Order)		CASE NUMBER: UDFS1806354

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): **ARDREDA JOHNSON** makes the following substitution:

1. **Former legal representative** ☒ Party represented self ☐ Attorney (name):
 2. **New legal representative** ☐ Party is representing self* ☒ Attorney
 a. Name: **JAMIE WRIGHT** b. State Bar No. (if applicable): **264484**
 c. Address (number, street, city, ZIP, and law firm name, if applicable):
8939 S. SEPULVEDA BLVD., SUITE 102
LOS ANGELES, CA 90045
 d. Telephone No. (include area code): **(866) 731-7505**
 3. The party making this substitution is a ☐ plaintiff ☒ defendant ☐ petitioner ☐ respondent ☐ other (specify):

***NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

- | | | |
|---------------|---------------------------|------------------------------|
| • Guardian | • Personal Representative | • Guardian ad litem |
| • Conservator | • Probate fiduciary | • Unincorporated association |
| • Trustee | • Corporation | |

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

NOTICE TO PARTIES WITHOUT ATTORNEYS

A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.

Date: **JANUARY 7, 2019**

ARDREDA JOHNSON

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY)

5. ☒ I consent to this substitution.

Date: **JANUARY 8, 2019**

ARDREDA JOHNSON

(TYPE OR PRINT NAME)

(SIGNATURE OF FORMER ATTORNEY)

6. ☒ I consent to this substitution.

Date: **JANUARY 7, 2019**

JAMIE WRIGHT

(TYPE OR PRINT NAME)

(SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

CASE NAME:

#109

CASE NUMBER:

Crosby Capital USA LLC v. Ardreda Johnson, et al

UDFS1806354

**PROOF OF SERVICE BY MAIL
Substitution of Attorney—Civil**

Instructions: After having all parties served by mail with the Substitution of Attorney—Civil, have the person who mailed the document complete this Proof of Service by Mail. An unsigned copy of the Proof of Service by Mail should be completed and served with the document. Give the Substitution of Attorney—Civil and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (specify):
Business: 12223 Highland Ave., #106-355, Rancho Cucamonga, CA 91739
2. I served the Substitution of Attorney—Civil by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.
(1) Date of mailing: 01/08/2019 (2) Place of mailing (city and state): Rancho Cucamonga, CA 91739
3. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 9, 2019

Trina Patterson

(TYPE OR PRINT NAME)



(SIGNATURE)


NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

4. a. Name of person served: Aldridge Pite, LLP c/o William R. Jarrell
- b. Address (number, street, city, and ZIP):
4375 Jutland Drive, Suite 200
San Diego, CA 92177-0934
- c. Name of person served:
- d. Address (number, street, city, and ZIP):
- e. Name of person served:
- f. Address (number, street, city, and ZIP):
- g. Name of person served:
- h. Address (number, street, city, and ZIP):
- i. Name of person served:
- j. Address (number, street, city, and ZIP):

☐ List of names and addresses continued in attachment.

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EXHIBIT “D”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) #111 JAMIE WRIGHT J. WRIGHT LAW GROUP, P.C. 8939 S. SEPULVEDA BLVD., SUITE 102 LOS ANGELES, CA 90045 TELEPHONE NO. (866) 731-7505 FAX No. (Optional) (866) 731-7505 E-MAIL ADDRESS (Optional) jwright@jamiewrightlawfirm.com ATTORNEY FOR (Name): Defendant Ardreda Johnson		FOR COURT USE ONLY <div style="text-align: center;"> FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO FONTANA DISTRICT JAN 11 2019  MARC CORDOVA, DEPUTY </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 17780 ARROW BLVD. MAILING ADDRESS: 17780 ARROW BLVD. CITY AND ZIP CODE: FONTANA, CA 92335 BRANCH NAME: FONTANA COURTHOUSE		CASE NUMBER UDFS1806354
PLAINTIFF: CROSBY CAPITAL USA LLC DEFENDANT: ARDREDA JOHNSON, ET AL		
<div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> REQUEST <input checked="" type="checkbox"/> COUNTER-REQUEST </div> TO SET CASE FOR TRIAL—UNLAWFUL DETAINER <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant </div>		

1. ☐ **Plaintiff's request.** I represent to the court that all parties have been served with process and have appeared or have had a default or dismissal entered against them. I request that this case be set for trial.
2. **Trial preference.** The premises concerning this case are located at (street address, apartment number, city, zip code, and county):
7352 STONEHAVEN PLACE, RANCHO CUCAMONGA, CA 91730
 - a. ☒ To the best of my knowledge, the right to possession of the premises is still in issue. This case is entitled to legal preference under Code of Civil Procedure section 1179a.
 - b. ☐ To the best of my knowledge, the right to possession of the premises is no longer in issue. No defendant or other person is in possession of the premises.
3. **Jury or nonjury trial.** I request ☒ a jury trial ☐ a nonjury trial.
4. **Estimated length of trial.** I estimate that the trial will take (check one):
 - a. ☐ days (specify number):
 - b. ☒ hours (specify if estimated trial is less than one day): **1-2**
5. **Trial date.** I am not available on the following dates (specify dates and reasons for unavailability):
Unavailable 1/16/19. Requested date of 2/19/19. Attorney was just retained on 1/7/19 and needs additional time to review case and complete deposition and discovery. Plaintiff is refusing to comply with discovery.
UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)
6. (Complete in all cases.) An unlawful detainer assistant ☐ did not ☐ did for compensation give advice or assistance with this form. (If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.)

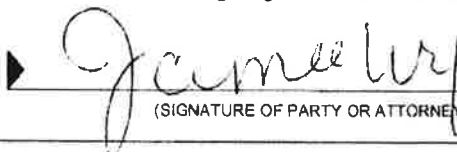
a. Assistant's name: b. Street address, city, and zip code:	c. Telephone no.: d. County of registration: e. Registration no.: f. Expires on (date):
--	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 10, 2019

JAMIE WRIGHT

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- An unlawful detainer case must be set for trial on a date not later than **20 days after the first request** to set the case for trial is made (Code Civ. Proc., § 1170.5(a)).
- If a jury is requested, \$150 must be deposited with the court 5 days before trial (Code Civ. Proc., § 631).
- Court reporter and interpreter services vary. Check with the court for availability of services and fees charged.
- If you cannot pay the court fees and costs, you may apply for a fee waiver. Ask the court clerk for a fee waiver form.

PLAINTIFF: CROSBY CAPITAL USA LLC

#112

CASE NUMBER:

UDFS1806354

DEFENDANT: ARDREDA JOHNSON, ET AL

PROOF OF SERVICE BY MAIL

Instructions: After having the parties served by mail with the Request/Counter-Request to Set Case for Trial—Unlawful Detainer, (form UD-150), have the person who mailed the form UD-150 complete this Proof of Service by Mail. An **unsigned** copy of the Proof of Service by Mail should be completed and served with form UD-150. Give the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and **not a party to this case**. I am a resident of or employed in the county where the mailing took place.
 2. My residence or business address is (specify):

Business: 12223 Highland Ave. #106-355, Rancho Cucamonga, CA 91739

3. I served the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) by enclosing a copy in an envelope addressed to each person whose name and address are shown below AND

- a. ☒ **depositing** the sealed envelope in the United States mail on the date and at the place shown in item 3c with the postage fully prepaid.
 b. ☐ **placing** the envelope for collection and mailing on the date and at the place shown in item 3c following ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

c. (1) Date mailed: January 11, 2019

(2) Place mailed (city and state): Rancho Cucamonga, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Date: January 11, 2019

Trina Patterson

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON WHO MAILED FORM UD-150)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Name

Address (number, street, city, and zip code)

4	Aldridge Pite, LLP c/o William R. Jarrell	4375 Jutland Drive, Suite 200 San Diego, CA 92177
5		
6		
7		
8		
9		

- ☐ List of names and addresses continued on a separate attachment or form MC-025, titled Attachment to Proof of Service by Mail.